S. HRG. 101–42

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 341

TO AMEND THE FEDERAL AVIATION ACT OF 1958 TO PROHIBIT DISCRIMINATION AGAINST BLIND INDIVIDUALS IN AIR TRAVEL

MARCH 14, 1989

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AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

TUESDAY, MARCH 14, 1989

U.S. SENATE,
SUBCOMMITTEE ON AVIATION,
COMMITTEE ON COMMERCE, SCIENCE, AND TECHNOLOGY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9 a.m., in room SR-253, Hon. Wendell H. Ford (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Steve Palmer, senior professional staff member; Carol Carmody, professional staff member; Patty Hahn and John Timmons, minority staff counsels.

OPENING STATEMENT BY SENATOR FORD

Senator FORD. Good morning, ladies and gentlemen.

This morning, we will hear testimony regarding S. 341, a bill to amend the Federal Aviation Act to prohibit discrimination against blind individuals in air travel.

Last month, Senator Hollings introduced and I cosponsored a bill which we believe will restore the blind air traveler to full citizenship. For years, these people have been subjected to varying, irrational, and insensitive airline policies, which restrict the blind individual's ability to travel.

The airlines were allowed to develop their own procedures for seating handicapped passengers, and the result was a welter of confusing regulations. The Air Travel Rights for Blind Individuals Act simply prohibits air carriers from restricting the seating of blind passengers in an aircraft.

In 1986, when we passed the Air Carrier Access Act, we intended to end discrimination by air carriers against all handicapped people, and we expected the Department of Transportation to issue regulations. The department determined that exit row seating was a safety, rather than a discrimination, issue, and referred the matter to FAA.

The FAA published proposed regulations on exit row seating on March 13. The FAA proposal requires air carriers to assure that passengers seated in exit rows must be able to operate the emergency door and to insure safe use of the exit.

We are here today to determine why the FAA believes this rule is necessary, to examine any evidence the FAA may have, to hear

why the FAA believes blind people are less able than unimpaired persons to safely evacuate an aircraft.

We also have witnesses representing the National Federation of the Blind, the Society for the Advancement of Travel for the Handicapped, the Air Transport Association of America, and the Association of Flight Attendants.

I appreciate all of the witnesses being here today and I appreciate those here in support of this legislation being present. I will look forward to all of the testimony.

We are very pleased to have with us today the distinguished member of the House of Representatives, Hon. James Traficant.

Senator Hollings, do you have an opening statement?

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. In 1986, Congress enacted the Air Carrier Access Act, legislation to ensure that no individual suffering from any mental or physical handicap would be discriminated against by an airline. Within weeks of its introduction, that legislation was adopted in both Houses of Congress without objection and signed into law by President Reagan.

Everyone agreed. There was simply no legitimate reason for an airline to treat a handicapped person differently than any other passenger.

Nearly 2½ years later, regulations to implement this legislation remain in limbo. The reason for this has been the insistence by bureaucrats at the Department of Transportation and the Federal Aviation Administration that the Federal Government must now be in the business of regulating where people sit on an airplane.

This issue boils down to who should be allowed to sit in seats near the emergency evacuation exits. In particular, even though many anticipate darkness in the aircraft cabin following a crash, as well as the extreme likelihood of dense smoke, the FAA believes that blind individuals should not be allowed to sit near emergency evacuation doors.

There is no issue of greater importance in aviation than passenger safety. This committee has devoted countless hours working to ensure that every possible measure to improve air safety is examined in detail. However, we cannot place the lives of one group of individuals below any other—particularly when the evidence to substantiate restrictions against blind passengers does not exist.

The FAA has never before found it necessary to regulate passenger seating. After conducting several studies on emergency evacuations by handicapped passengers during the 1970's, the agency decided against pursuing such regulations. One can only surmise that the FAA did not believe that its research provided a compelling basis for regulating passenger seating. But just yesterday, using these same 10- to 15-year-old studies as justification, the FAA issued a Notice of Proposed Rulemaking to restrict exit row seating.

How can the same administration that professes to seek a kinder and gentler Nation, turn around and tell the hundreds of thousands of blind air travelers that they must be kept away from those emergency evacuation exits?

With the President's objective in mind, coupled with the fact that no new evidence has been developed on emergency evacuation by blind passengers, I strongly believe that FAA's proposed rules should be withdrawn.

I have introduced legislation that would accomplish that task. The Air Travel Rights for Blind Individuals Act has strong support in this body, where 25 of my colleagues have joined in cosponsoring this bill, as well as in the House of Representatives.

I called for this hearing to highlight the problems blind people are currently encountering when they fly. And, it is my hope that once exposed, other members of the committee and the aviation community will understand the severity and importance of this matter.

Before concluding, let me thank Senator Ford for agreeing to chair today's hearing, particularly given his extremely tight schedule this morning. I am fortunate to have the chairman, as well as the ranking Republican, of our Aviation Subcommittee as cosponsors to S. 341, and I look forward to working with them on this legislation. Again, Mr. Chairman, thank you.

[The bill follows:]

101ST CONGRESS
1ST SESSION

S. 341

To amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2 (legislative day, JANUARY 3), 1989

Mr. HOLLINGS (for himself, Mr. FORD, Mr. METZENBAUM, Mr. MCCAIN, Mr. JEFFORDS, Mr. SANFORD, Mr. DODD, Mr. DIXON, Mr. THURMOND, Mr. DOMENICI, Mr. SIMON, Mr. DURENBERGER, Mr. HARKIN, Mr. PRYOR, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. SHELBY, Mr. ADAMS, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Air Travel Rights for Blind Individuals Act".

SEC. 2. Section 404(c)(1) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1374(c)(1)) is amended by adding at the end thereof the following: "An air carrier shall not restrict seating in aircraft on the basis of the visual acuity of a

passenger or the use by a passenger of a white cane, dog guide, or other such means of assistance.".

O

Senator FORD. Jim, we are ready to hear from you this morning. It's good to see you again. The last time we were together, we were talking about coal, I think. We have a variety of issues that we work on.

STATEMENT OF HON. JAMES TRAFICANT, JR., U.S. REPRESENTATIVE FROM OHIO

Mr. TRAFICANT. Senator, I am very, very proud to be here, and I am really inspired by the fact of your participation and support for this legislation.

I would like to start out by also thanking you from all the citizens of Ohio and that region of our great Nation for your leadership on coal. We thank you very much.

As you may know, Senator, I am the original sponsor of the legislation that is being discussed, and I brought it forward in the 100th Congress, and now it has been embraced by Senator Hollings and yourself and others in the Senate. I am very pleased with that.

I think the issue goes right to the core of constitutional opportunities that are not being afforded individuals and treating people the same way.

I am going to submit my written statement for your records, and for the journal.

Senator FORD. Of course, your statement will be included in the record in full.

Mr. TRAFICANT. Thank you.

As you know, we have come to a point where many people are saying look here, we have a situation where it would seem that the blind would not be able to function in an emergency exit row or handling that seat of 80 pounds pressure. That has been the normal hypothesis that has been studied to this point.

I am not so sure that the test studies that have been conducted really bear that to be true.

Number one, I think in the one particular study, they have taken certain FAA staff or airline employees and/or other people familiar with the airlines and put blindfolds on them and tested them in performance with their particular role, relative to removing from an airplane.

Now I have to question that.

Number one, I think if we were to take blindfolds and put them on the FAA staff that is here to testify today, I wonder if, in a performance case, they could find a restroom as well as a nonsighted person. I don't think that they could.

You know, what really bothers me is we are not just talking about that exit row door. We are talking about the exit row and we are talking, supposedly, about safety.

I think this is the biggest smokescreen I have ever seen or heard of.

Number one, if we are really concerned about safety in the event that one of our craft is in a dangerous situation and must land, and has an opportunity to remove people safely, my god, why do we have any seats in front of that exit row? We have them there because of the revenue that they generate to those airlines.

So, let's look pragmatically, now, on the scenario that we do have those seats there and a nonsighted person could be in the aisle seat, and the FAA is saying no.

Now I'll talk about the Constitution at this point and say this. What gives more right to a sighted person to have more safety access to existing aircraft than to a nonsighted person? Are we to say that they are to be in the back of the bus, and, hopefully, some good samaritan would pick them up in a moment of crisis and drag them through the door?

I don't think that is the case.

So I think that the FAA regulations that were to have been promulgated about a year ago that have recently come out speak to the fact that we have a situation here where we are treating the nonsighted passengers as second class citizens. This concerns me.

Now, specifically, in the event that one of these unfortunate disasters would occur, why should the nonsighted person not have the same opportunity to be removed and to remove himself from that particular craft?

I believe the studies that have been taken to this point have been predicated upon hypotheses that are vague in nature, and the results have been nebulous, to say the least. I think there must be at least more understanding of it.

Then we look at the situation of a person who might be seated at that exit row or at that door itself, who perhaps is on either a controlled prescription, legally prescribed by a physician, or is an abuser of some illicit chemical or a tranquilizer—and specifically, let's say Valium at this point.

That person in that row or at that seat, given two or three gin and tonics, with the synergistic effects of those chemicals being present, could be rendered of performing those duties as well.

So, where are the criteria?

I think if we are looking at criteria that say look, we'll evaluate the nonsighted the same as everybody else in this scenario, I could buy it. But we do not. We just say because of the lack of sight, that disqualifies you from sitting in that emergency row.

Now, I have worked on this matter for 3 years. My main concern is certainly not one to try to disrupt our airlines, or certainly the safety factors that exist in our airlines.

Certainly, within that scenario, the FAA has the right and is charged with the responsibility to insure safety in our skies.

But I would like to say, when we come to a point where we begin to erode and take away the rights, the civil rights, of individuals, that policy must then be questioned. That is my major concern here today, Mr. Chairman.

So I think some of the studies that we have had have not necessarily borne the fruit that the FAA is trying to hang its hat on.

Finally, I pose this as a scenario.

In the event that we would have a power outage on a flight that would be forced to land, or in a smoke-filled cabin, where panic and hysteria is not as easy to understand as we would so simply discuss it here this morning, the FAA trying to tell the Senate and the House that a sighted person now not able to visually function would be as well equipped to handle such a disaster as a nonsighted person, I say absolutely not.

I am not here from the emotional, sensitive standpoint. I am here this morning to insure that, as we have penned the greatest document of freedom in the world, the Constitution, that Constitution should be meted out evenly and fairly to all.

In this case, I think questions are brought to my mind.

So, again, I am here today as the sponsor of H.R. 563, to support S. 341, to commend you for joining forces in trying to help in that, and I will try to answer any specific questions you may have.

Just in closing, let's treat everybody the same. There is an old saying that was once made by a famous Hall of Fame football player in the NFL, Willie Davis, defensive end for the Green Bay Packers.

At the end of the great Lombardi era, he was asked by a member of the news media, what did he really think of his coach and what did he feel the others thought about the coach, really now, Willie, now that he is gone.

He said, "Well, I loved him." He said, "Why was that, Willie?" He said, "We loved him because he treated us all alike—at times like dogs, but all alike."

I think that is the thrust of my particular testimony here, Senator.

I commend you for what you have done in other areas to help areas of the country like mine and certainly your State. I would hope that your hearings would be successful and that some remedy can be afforded.

[The statement follows:]

TESTIMONY OF
CONGRESSMAN JAMES A. TRAFICANT, JR.
BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE
AND TRANSPORTATION SUBCOMMITTEE ON AVIATION
MARCH 14, 1989

Mr. Chairman, I am pleased to testify this morning on behalf of my bill, H.R. 563 and its Senate companion, S. 341, the "Air Travel Rights for Blind Individuals Act." I have been closely involved with handicapped discrimination issues concerning blind passengers and commercial airlines for three years now, and I am glad to have the chance to speak out on behalf of legislation which will ensure fairness and dignity to all airline patrons.

Newspaper headlines have been dominated recently by what seems like an epidemic number of airline-related incidents, ranging from the Eastern Airlines labor-management strife, to the life-expectancy of operating aircraft. Air travel issues are paramount because so many of us have come to rely on the fastest mode of transport: we're on planes almost as much as we're in cars. We expect to get from point A to point B quickly and safely. When combining rising numbers of people in the airways with the risky nature of air travel, the issue of safety procedures on board becomes highly charged.

Safety procedure issues become even more intense when they become discriminatory. I refer specifically to the subjective methods by which commercial airlines' seat passengers, oftentimes barring blind passengers from emergency exit row seating. As passed by Congress and signed into law in 1986, the Air Carrier Access Act (Public Law 99-435) requires the Federal Aviation Administration (FAA) to issue regulations to ensure non-discriminatory treatment of qualified handicapped individuals consistent with the safe carriage of all passengers on air carriers. Regulations were to have been published by the end of January, 1987, yet not until last week did the FAA issue its proposed rule. What's more, the implications of this new ruling are highly discriminatory.

The proposed FAA ruling "would limit exit row seating in domestic air carrier airplanes to persons who are able to operate emergency exits without assistance." The ruling has been issued in the interest of safety, yet there is no empirical data pointing to the fact that blind passengers are a safety threat to other on-board passengers.

Only one study conducted by the FAA back in 1972 was used in determining the rule. This study measured the time needed by 22 blind people (who had little or no experience as air travelers) to open an emergency exit door. These measurements were then evaluated against the results of a sighted test group of FAA officials and university students, all clearly familiar with aircraft layout and travel procedures.

In the same study, another test evaluated blindfolded people -- not actual blind -- as they evacuated aircraft through emergency exit doors. Now, how can a blindfolded person who has had no prior experience being blind or having had to perform functionally in a sighted world be expected to test on par with the actual blind individual?

Mr. Chairman, this 17-year old study based on the performance of only 100 people does not convince me that the FAA ruling is non-discriminatory. The study test groups were clearly maligned and misleading. By basing the proposed ruling on such evidence, we can only conclude that the FAA has decided to make permanent the current airline discriminatory practices against the blind.

The bill I have introduced, along with the Senate companion bill introduced by Senator Hollings, would prevent airlines from discriminating against blind passengers. The bill simply states that,

> "[A]n air carrier shall not restrict seating in aircraft on the basis of the visual acuity of a passenger or the use by a passenger of a white cane, dog guide, or other such means of assistance."

Incorporating this measure into federal regulations would ensure the fair treatment of blind passengers, without risking safety. High-level policy meetings with officials from groups including the airlines, trade associations representing the airlines, and the FAA, have disclosed no information that safety risks exist in any respect to transporting blind persons on airlines. At this point I would like to ask, "what are the airlines doing to promote safety in the air?"

I pose this question because it seems that there are several questionable airline "standard operating procedures," despite their evident threat to safety. For instance, serving alcohol to passengers, regardless of their seat assignment. Don't the airlines consider a passenger seated next to an emergency exit who has had three gin and tonics a threat to other passengers on board? Would this intoxicated person be able to think clearly and move quickly in an emergency situation? I don't think so. Nor do I think that, in the case of a slightly built, frail, person would he or she be well-equipped to lift an 80-pound emergency exit door without assistance. In my book, these people represent real safety threats.

The list goes on. Standard airline policy allows adults with children under two years of age to hold the child on their lap; this way the child flies for free. How safe is the child without a restraint in the event of strong turbulence or sudden altitude descent? Some sort of additional restraint could be used, but this would cost the airlines money. Another example includes transporting hazardous materials in aircraft baggage compartments. An incident reveals that mislabeled chemicals which were flammable caught on fire, yet no fire alarm existed to alert the crew. Again, fire alarms cost money, but at what cost should we forego safety?

One relatively cost-free safety measure includes giving a special briefing and briefing card to each individual seated in an emergency exit row. These people would be well-informed on how to operate the emergency exit door, therefore raising the safety standards for all passengers. Airlines should stress that sitting in emergency exit row spaces is a responsibility based on the risks involved with flying. Refusal to admit to this responsibility is a merely public relations shield. As I said earlier, the issue of safety on board is already highly charged; adding passenger responsibility to the issue could put even more stress on the airline image.

It's clear that several methods of increasing safety are overlooked. That's why I am here today to speak out on behalf of blind and other handicapped passengers who continue to be caught in a safety trap which is nothing more than posturing. While most people can understand an airline's legitimate concern about safety, one cannot understand or condone the harsh, rude and condescending manner in which many airlines have treated blind passengers who happened to be assigned to an emergency exit row seat. It's time to stop assuming that blind air travelers would be unable to open an emergency exit door, the same way drunk passengers are assumed able to open an emergency exit door.

Mr. Chairman, some airlines have forcibly removed blind passengers from emergency exit row seats and had them arrested. I must stress that no other non-handicapped class of citizens has been subject to this sort of treatment. The sad truth is the airlines -- like much of our society -- continue to classify blind persons as second-class citizens, unable to function in a normal world.

We in Congress must act on behalf of blind passengers in their plea against unjustified and humiliating discrimination. Passage of the "Air Travel Rights for Blind Individuals Act" achieves this by allowing the airlines and the FAA to establish criteria for seating passengers in exit row seats as long as the policy is fair -- in other words, not arbitrarily discriminatory.

It's time we stop basing airline safety methods on mere supposition, and then claiming that such methods are implemented on behalf of safety. Doing so only covers up the glaring safety problems that really need to be addressed. Blind passengers can no longer be the scapegoat in the airlines' efforts to ensure safety on board. They must be granted the decent and civil treatment offered to every other paying air travel customer.

Thank you, Mr. Chairman, for allowing me to testify today. I would like to add that I am encouraged by the bi-partisan support my bill has in the House. There are currently 124 co-sponsors of H.R. 563. I must emphasize that this legislation addresses a serious wrong which must be made right. I will continue my efforts in the coming months on behalf of the blind community's plea against discrimination, and I am confident that through these efforts we can bring forth fairness and civility.

Again, thank you for your time. I will be glad to respond to any questions you or other members of the subcommittee may have.

Senator FORD. Jim, I think your statement eliminates any question I might have to ask you.

Senator Exon, do you have anything at this time, any statement or questions?

OPENING STATEMENT BY SENATOR EXON

Senator EXON. Mr. Chairman, unfortunately this morning there are four other meetings going on, one of which I have to chair.

I just want to say that I think this is a very important issue. I compliment you, Mr. Chairman, for calling this meeting, so that we can get a better perspective on this matter.

As we all know, and it has been testified to already this morning, there is legislation introduced in this area that I think is something we should very, very carefully consider.

The background information that we will obtain from the witnesses this morning is going to go a long way to enhance the prospect of passing legislation in this general area, whether it is the specific legislation that has been recommended or not.

I thank the witnesses for coming here this morning on this subject that I know is causing a great deal of attention to our citizens that work very hard, the visually impaired.

Thank you to the panels for being here and thank you, Mr. Chairman.

Senator FORD. Thank you, Senator, and thank you, Congressman.

We appreciate your coming over. We always have appreciated the courtesy you have shown us on your side and hope that we have reciprocated on this side.

Mr. TRAFICANT. Thank you, Mr. Chairman.

Senator FORD. The next witness will be Anthony J. Broderick, Associate Administrator for Regulation and Certification, Federal Aviation Administration.

Tony.

STATEMENT OF ANTHONY J. BRODERICK, ASSOCIATE ADMINISTRATOR FOR REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION

Mr. BRODERICK. Mr. Chairman and members of the committee, to save time I would prefer to make a brief summary statement and then to respond to your questions.

I ask that my full statement be submitted for the record.

Senator FORD. Your full statement will be included in the record in total.

You may proceed.

Mr. BRODERICK. Thank you.

Mr. Chairman, you have asked for our opinion on the need for additional legislation, such as S. 341, the subject of this hearing, which would require U.S. airlines to seat blind passengers wherever they want to sit.

We cannot support that legislation because we believe it is inconsistent with the statutory duty resting upon airlines to provide the highest possible level of safety.

My prepared statement and our just released notice of proposed rulemaking on this subject lay out in some detail our reasoning.

Mr. Chairman, the question of exit row seating has been debated and studied for some time. For the last 15 or 20 years, while we have dealt in technically different ways with this difficult subject, our position and the scientific studies on which it is based have remained consistent.

Simply stated, to achieve the highest level of safety in air transportation, only people who, unassisted, are able to promptly activate an emergency exit and to take the additional actions necessary to insure safe use of that exit in an emergency should be seated in exit rows.

This position does not single out any one class of disability, but recognizes that a wide variety of situations must be dealt with in emergencies. Exit row seating of people with some disabilities is inconsistent with the highest level of safety.

Our proposed rule covers anyone who might delay initiation of evacuation from an aircraft. Included, for example, are the extremely obese, parents and their small children, the infirm, and people who are intoxicated.

In the extraordinarily rare case of an aircraft accident involving fire, it is difficult to overstate the importance of prompt and appropriate action in establishing a flow of passengers through an emergency exit, or diverting that flow from an unusable exit.

Inappropriate exit row seating could easily cost precious time in establishing that flow. This time would not be lost if disabled people are able to join the flow once it has been initiated, rather than attempting to initiate the flow themselves.

Let me cite a few examples of recent aircraft accidents in which lives were lost only because people who had survived the accident were unable to exit the aircraft before the flashover of a cabin fire cut short their window of survivability.

In the early 1980's, over 300 passengers died when a Lockheed Tristar safely landed with an onboard fire. But flashover occurred before the exits could be opened, killing all onboard.

Similarly, a DC–9 experienced an onboard fire and diverted to an emergency landing in Cincinnati in 1983. Only 18 passengers were able to escape through five emergency exits. Twenty-three passengers were caught by the fireball, resulting from cabin flashover, and died.

In 1985, a tragic accident occurred overseas, when a fully loaded Boeing 737 caught fire on the takeoff roll, which was immediately abandoned as the plane was brought to a halt. Fire spread rapidly through the cabin, and over 50 people were unable to evacuate the aircraft in time to survive.

Mr. Chairman, each of these accidents involved only fire. No damage to the aircraft was involved. There were no seats broken. There were no traumatic injuries from impact. Yet, nearly 400 people died.

These people died because the evacuation was not fast enough.

Once an evacuation is initiated, flow rates of people through typical door exits exceed one passenger per second per slide lane. For a wide-bodied aircraft, this may be 10 or more people per second evacuating the airplane and surviving.

Blocking a single aisle for only a few seconds can easily delay the evacuation of five or six passengers.

Our research has clearly shown that evacuation delays are associated with a wide variety of functional limitations, and that these delays are minimized when the functionally limited are able to join the flow, rather than being seated in a position which might delay its start.

Our intent in proposing to limit exit row seating is to provide a framework within which airlines are able to operate to the highest level of safety.

I deeply regret that some may have viewed our actions as aimed at another target. In an aircraft accident involving fire, we must do all we can to provide the maximum degree of survivability. The exit row seating restrictions we have proposed are the minimum we could devise to be consistent with that responsibility.

I thank you for the opportunity to appear before you today and will be pleased to answer any questions you have.

[The statement follows:]

96-664 0 - 89 - 2

STATEMENT OF ANTHONY J. BRODERICK, ASSOCIATE ADMINISTRATOR FOR REGULATIONS AND COMPLIANCE, FEDERAL AVIATION ADMINISTRATION, BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, SUBCOMMITTEE ON AVIATION, CONCERNING THE FAA'S PROPOSED EXIT ROW SEATING REGULATION. MARCH 14, 1989.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before the Subcommittee to describe the FAA's actions to prescribe guidelines to ensure that passengers seated near aircraft exits can facilitate an emergency evacuation. I know there are some concerns about our efforts in this area, and I welcome the opportunity to address those concerns today and Chairman Hollings' bill, the "Air Travel Rights for Blind Individuals Act."

Congress' enactment of the Air Carrier Access Act in 1986 prompted renewed attention to a critical issue of aviation safety--the ability to evacuate an aircraft cabin within seconds after a crash involving fire. These events are uncommon, but they must be planned for.

In a crash involving cabin fire, every small increment of time counts. When an evacuation is in full progress, it is typical to see maximum passenger evacuation rates of one per second down each aisle of each door slide. In a widebody aircraft, this can mean ten people evacuating each second! If an aisle-or, worse, a door leading to a double aisle slide--is blocked for a brief period,

say 10 seconds, this may prevent 10 or 20 people from evacuating the aircraft. With such large potential passenger flow rates and the real threat of fire and disasterous flashover present in every accident, I am sure you can see why a delay of even 5 or 10 seconds could be tragic and should be avoided if at all possible.

FAA research concerning aircraft evacuations--both from actual and simulated accidents--tells us that the most critical phase of an evacuation is the initial start up time--getting the doors or window exits open safely, deploying evacuation slides, beginning the movement of people off the airplane. Time lost during this initial part of the evacuation can never be made up, whereas, once the evacuation queues begin to form, time lost in getting to those lines is not as critical and can be compensated for. This means that, during an evacuation, anything which slows the opening of doors or impedes the start of passengers getting off the plane increases the likelihood of fatalities. Research also shows us that people with extra responsibilities--for example, the care of a small child--people with certain kinds of disabilities, and infirm, aged, or obese people, if seated near an exit, may impede rather than facilitate an evacuation from an aircraft. Simply stated, the possibility that such individuals may be seated in exit rows creates an added safety risk not only for themselves but for other passengers as well, and mandates FAA activity in this area. These studies were scientifically conducted by a team of

researchers, each utilizing his or her particular skill and training. Each member of the research team has published extensively. Each is widely-recognized.

To address this safety issue, FAA has just issued a Notice of Proposed Rulemaking that seeks to develop an approach which recognizes which functions and capabilities are needed to initiate both safe and timely evacuation from an aircraft exit. They include: locating the exit; recognizing, comprehending the instructions for use, and operating an exit door or window; assessing conditions, such as outside fires, distance to the ground, or hazards outside the exit; assessing whether a slide can be used safely; stowing or securing an exit door; safely using the exit, including facilitating or aiding other passengers; and following directions (either in the form of oral directions or hand signals) from a crewmember. A person's inability to perform adequately any of these functions could jeopardize the safety of other passengers.

I would like to set forth the background for our NPRM. For safety considerations, individual airlines have in the past adopted procedures which address transportation of handicapped people. Many of the airline procedures dealt specifically with exit row seating, and followed the general guidelines published by the FAA on air transportation of persons with disabilities. All of these

procedures were reviewed by the FAA to be sure they did not create safety problems, but they were never screened by the agency for consistency or standardization. Regulatory negotiation on rules implementing provisions of the Air Carrier Access Act clearly pointed out the need to specifically address the safety issues, as well as nondiscrimination issues, involved in exit row seating and to ensure that any procedures used by the airlines were reasonable, fair, and uniformly applied. Today, however, the traveling public is faced with a confusing and sometimes inconsistent array of different airline procedures.

Exit row seating can be critical to determining whether passengers will survive an aircraft accident involving fire. While we focus considerable attention during aircraft design and certification on ways to minimize fuel spillage and ignition following a crash, fire clearly can and does occur. A passenger's survival of a crash involving fire depends on his or her being able to evacuate and move quickly away from the aircraft in a short time, during the period I call the "window of survivability." The width of this window is measured in seconds, and may be as short as 30 seconds, up to 100 or 200 seconds or more, depending on the specific circumstances. In the past decade, FAA scientists, engineers and safety specialists from a number of disciplines have

conducted a wide variety of cabin safety and crash survivability programs. Viewed in a broad perspective, they all drive toward a common goal--opening the window of survivability as wide as possible, thus increasing the time available for evacuation of an airplane following a crash and assuring that as many passengers as possible can safely evacuate the airplane within that window.

The window of survivability begins the instant an aircraft comes to rest, when it is possible to initiate an evacuation. The window ends when cabin fire becomes so intense, or the air so poisoned, that survival is no longer possible. Most of our safety efforts in the past decade have been pointed towards pushing that time back--delaying the onset of intense cabin fire so that more time is available to evacuate safely. Indeed, many tens of millions of dollars have been spent by airlines to comply with a number of rules, each of which is designed to add a small increment of time to the window of survivability by delaying the onset of fire and toxic fumes. For example, airlines have added fire blocking layers to foam seat cushions. This eliminates an early source of fuel for cabin fires, thereby delaying the onset of flashover--the fireball which envelops the cabin and makes it non-survivable--and widening the window of survivability. High performance Halon fire extinguishers are now required in all aircraft, and the number of extinguishers has been increased. Much improved flight and cabin crew protective breathing equipment

has been mandated, and improved training is designed to provide more passenger escape time. Smoke detectors and automatic fire extinguishers have been added to lavatories, and fire hardened wall and ceiling panels are now required for all new aircraft interiors. Retrofit of these materials is being required as cabins are refurbished. As a direct result of 23 fatalities in the 1983 Air Canada fire, we added floor proximity lighting systems to our cabin safety requirements. By helping speed the evacuation process by means of better visual orientation and color coded identification of exit locations, most safety experts agree we have added another increment to the window of survivability.

Mr. Chairman, each of these actions has improved the survival aspects of an airline accident. Each is a small but very important increment in our safety programs. When we look at the potential for hundreds of deaths in an otherwise survivable fire, as happened inexplicably a few years ago in a foreign operated L-1011 accident; when we see the tragic loss of life caused by the onset of flashover in situations like the Air Canada accident or the 737 accident at Manchester, England, a few years ago; when we see the additive nature of each safety improvement we have made over the years, perhaps it becomes clear why we have focused so carefully on ensuring that evacuation is not slowed by the seating of people who generally are less capable of performing the functions required to initiate (or stop) the use of an emergency exit as soon as possible.

Exit row seating is not a new issue. In fact, in the early 1970's the FAA considered prescribing specific regulations in this area, finally opting, instead, to provide general guidance to carriers in the form of an FAA Advisory Circular and authorizing airlines to develop their own approach to restrict exit-row seating. Subsequently, though, there have been two developments which have caused us to focus again on this safety area. First, we have found that the approaches adapted by carriers have varied considerably and lack consistency. Consequently, the full benefits of our safety improvements may not be realized in the event of an emergency evacuation. We have also noted that most passengers are not aware of the requirements for quick, effective action by themselves to facilitate an evacuation. Second, section 382.31 of the Departmental NPRM, implementing the Air Carrier Access Act of 1986 proposes to allow carriers to restrict exit row seating only to the extent that it is necessary to comply with FAA safety requirements. These factors led us to conclude that we had to reassess our earlier approach in this area, with a view toward adopting whatever measures are necessary for safety.

The approach we are following is not intended, in any manner, to raise barriers to travel for any individuals or category of people and the proposed rule has been carefully crafted to be sure it does not have any such effect. To the contrary, our focus is only on exit rows where there is the clearest responsibility for people

to be able to initiate and facilitiate an emergency evacuation. Other locations in the aircraft would be unaffected by this approach, and the right to travel would be fully protected for all groups and individuals. People will not be denied the opportunity to fly because of this safety proposal.

Our intent is to prescribe the minimum requirements needed for the safety of all passengers, taking into account the kinds of abilities--whether sensory, physical, or cognitive--needed to get people off a threatened aircraft. It is a rule that will emphasize the ability of a person to perform critical safety-related functions and not the presence or absence of a disability.

We would expect, for example, that people whose age or infirm condition might impair their ability to open an exit would not be seated in an exit row. Similarly, persons with small children accompanying them would not be considered appropriate for exit row responsibilities as there is an expectation that their responsibilities to their children would supersede their ability to assist in an emergency evacuation. Our approach would also call for the seating in rows other than exit rows of persons whose physical or mental handicaps would not enable them to meet the functional requirements we earlier identified.

I want to stress that our approach is not a social statement; it is not a statement that is intended to demean or single out any group; it is simply our recognition that we in the FAA have a responsibility to assure that we are taking those incremental steps that will promote safety for the greatest numbers of people in the event of an aircraft emergency.

I would be pleased to describe for you in greater detail our research efforts, and our findings associated with those efforts. I have attached to my prepared statement a brief summary of our research activities and findings in this area. I can go into any of these areas in further detail should you choose.

In closing, Mr. Chairman, I want to state that I know we all share the same goal of seeking to achieve the highest levels of safety for the American traveling public, while at the same time, recognizing that our air travel system must be open and available to all travelers on a fair and equitable basis and without unlawful discrimination. The proposal I have outlined today represents, in the view of the FAA, a reasonable step toward these goals. As we proceed through the regulatory process, we will, of course, consider and incorporate, as appropriate public input. But at this point, we believe that legislation in this area is unnecessary, and the approach we are considering provides a constructive framework for dealing with this issue, and will offer a good vehicle for solicitation of public input.

That completes my prepared statement, Mr. Chairman. I would be pleased to respond to any questions you may have at this time.

Senator FORD. Thank you, Mr. Broderick.

I have two or three questions that I would like to ask, and then I will turn to Senator Exon.

I understand your points about the need for speed in evacuation, but what evidence do you have that suggests the blind passenger would move any more slowly than any other passenger?

Mr. BRODERICK. Mr. Chairman, it isn't a question of moving more slowly once the evacuation is initiated. The question that we really are focusing on here is a wide variety of handicaps, including the blind, and whether or not they could perform the functions and have the capabilities to initiate a safely and timely evacuation.

Let me give you some examples.

We need to locate the exit. We need to recognize, and comprehend, the instructions for use and operate the exit door or the window. We need to assess conditions, such as outside fires, how far is it to the ground, what other hazards are there outside the exit. Are there rocks? Is there water out there?

We have to assess whether or not a slide can be used safely. Has it burned? Has it deployed? Has it become detached? Is it torn?

These things have all happened.

You need to stow or secure an exit door if it is inappropriate to use that exit—if there is fire, if there is smoke, either right at the door or below it.

You need to safely use the exit, including facilitating other passengers to begin the flow, and you need to follow directions from a crew member.

There are a number of functions that you need to perform, and I submit that a number of handicaps—and the blind is included among them—will not perform these functions as rapidly at the beginning of an evacuation as people who have the functions and the ability to perform those functions.

Senator FORD. Your notice of proposed rulemaking mentions the evacuation test conducted by the Civil Aeromedical Institute using handicapped people.

The Institute concludes that handicapped persons or persons with disabilities take longer to exit than do non-impaired persons.

Can you cite specific evidence of this for the blind?

Mr. BRODERICK. That study, in fact, did include a number of blind people.

There were 15 who were blind; one was also classified as legally blind, and eight were partially sighted, for a total of 24 blind or partially sighted people. This does not count the people that Congressman Traficant referred to earlier, who were blindfolded.

I might point out that, 20 years ago in an emergency evacuation which involves a lot of smoke, we did not have the kind of exit lighting and floor proximity lighting that we have today. Using blindfolds is a convenient way to simulate the sudden loss of the ability to see of sighted people. Obviously it does not simulate blind people, and the data clearly show that.

In all cases, the blind or the partially sighted were able to move more quickly than the sighted people with blindfolds. We do not contest that. But that is not the question.

The question is what is the most efficient way, the speediest way, and the safest way to initiate the flow through those doors? That is really the key.

Senator FORD. Are you saying that in these tests that were conducted by the Institute, they actually used individuals who were blind, declared legally blind, and others who were partially sighted, rather than just the blindfolded?

Mr. BRODERICK. Yes, Mr. Chairman. But let me not mislead you. We did not actually use blind people, to the best of my knowledge, to go down an evacuation slide.

As you know, it is very difficult to use human subjects in research. In order to do that, we have to establish through our own medical people that the experiment or the research clearly presents no danger to these subjects.

We then have to prepare a detailed research protocol and submit it to the Department of Health and Human Services for their approval, to insure the safety of human participants.

We certainly could not, using the best information available to us in the FAA, attest to the safety of a full-scale emergency evacuation which actually used blind or otherwise handicapped people. It is just too dangerous.

Senator FORD. In listening to your statement, it prompts me to ask this question.

It could mean that only the people who will be prohibited from exit row seating will be those whose disabilities are visible—that is, the nonambulatory, the aged, some of the blind, and so forth.

Isn't the FAA simply mandating discrimination against certain categories of people with no rational basis to do so?

Mr. BRODERICK. I think, in fact, we have done all we can to insure that we are only limiting people whose functional disabilities are significant in opening an emergency exit.

We are not able for obvious reasons to be 100 percent successful at this. But what we can do and will do, if our proposed rule is enacted, is ask for people to self-identify and clearly state in the boarding announcement, in the safety announcement, and in the boarding cards, which will be redone, in all the emergency exit row seats, that people need to perform certain functions. It will list the functions I mentioned earlier, and it will ask people to identify themselves if they feel unable or unwilling to perform those functions.

But, clearly, we will not be 100 percent successful at this.

Senator FORD. I will have just one more question and then I will turn to Senator Exon.

Does your proposed rule envision any additional training requirements for flight and cabin crews, or even ticket agents, in order to insure compliance with the regulation?

Mr. BRODERICK. Yes, it does.

What we are doing is requiring that each airline develop its own procedures to comply with the very detailed procedures that we have laid forth in the rule.

Once those procedures are initially approved at the local level, all of them will be sent to Washington headquarters for central review and evaluation, to insure some consistency and standardiza-

tion, which is a difficulty that we have had and that we regret in the last 15 years.

Although we don't have the rule in place yet, we cannot be very specific. But, of course, part of that will include appropriate training for all the people involved.

Senator FORD. I would just like to comment.

It appears that if you are going to let each airline set up its own criteria, you are going to have varying criteria, even though they might meet a certain standard. You are going to have a mish-mash of various and sundry regulations.

If I am any indication, you fly different airlines different days of the week, and so, I would have a problem understanding which airline I was going on. Would I have to go back and find out exactly what their procedures were.

Mr. BRODERICK. Mr. Chairman, that is exactly one of the things that we want to eliminate and focus on.

Let me say two things.

First of all, obviously, there are different pieces of equipment on different airlines, and, even within a airline, an airline like United Airlines, for example, a big international carrier, might have a dozen different kinds of emergency exits that it has to train people in using.

But, more importantly, we want to eliminate, as much as possible, any inequalities and nonstandardization by having central review of each and every airline program here in Washington, by a special group of people.

We will not be perfect at it, but I am sure that it is going to be an awful lot better than it has been for the last 15 years.

Senator FORD. Senator Exon.

Senator EXON. Mr. Chairman, thank you very much.

Mr. Broderick, let me ask you a question or two.

I assume that in your position with the Federal Aviation Administration, you are directly responsible in one way or another for the overall safety, and that is one of the reasons you are here testifying this morning. Is that correct?

Mr. BRODERICK. That is correct, sir.

Senator EXON. It seems to me that I would like to press forward a little bit more on the subject at hand here.

It is interesting for me to note that, within the last month, I travelled with my wife back from Phoenix, AZ. She had had an operation on her foot, and I thought it would be more convenient and it would give her more leg-room if we sat in the exit row seat.

But we were denied that request.

The reason was with her foot, not in a cast, but in a restraining mode, apparently, their regulations did not allow her to sit there. I understood that and there was no particular problem. We sat elsewhere and we were very well accommodated.

The point is, though, not being handicapped, I am not discriminated against. Therefore, this was not maybe as important to me.

I always try to walk in other people's shoes, to develop an understanding, as we wrestled with these difficult problems over the years. You know, back in the 1970s, Senator Ford and I served as Governors of our States together. For the 8 years that I was Gover-

nor of our State, we made significant strides in this whole series of accommodations for the handicapped.

Let me press this a little further.

You think, then—do you not—that the rule that is presently in effect, where the impaired, as far as sight is concerned, are discriminated against, or at least you agree that they are not allowed generally to be seated in an exit row seat at the present time on our airlines. Is that correct?

Mr. BRODERICK. In point of fact, there is no specific rule about that, and that gives rise to some of the inconsistent treatment that people have.

What we have is voluntary guidance material that is in place, which says that same thing. But it is not mandatory.

Senator EXON. Is it generally accepted among airlines that handicapped people will not be seated in exit rows?

Mr. BRODERICK. Yes, sir.

I think it is fair to say that in this country, as well as Great Britain, where for example, they are very explicit on that.

Senator EXON. This next is a leading question, but I think it is an important one. Would you state in just a few words, although you have said it, I guess implied it, why is that considered a safety problem? I assume it is because, as you have testified, any impediment to getting people out of an airplane quickly, after it lands under normal conditions, could adversely affect the people travelling on that aircraft as a whole. Is that correct?

Mr. BRODERICK. That is correct, sir.

Senator EXON. And, therefore, the less impairment that we have with regard to exiting an aircraft under emergency situations should be changed, and, if necessary, we should have Federal regulations or laws under the FAA to see that that is accomplished.

Is that your position?

Mr. BRODERICK. If that is necessary, yes, sir.

Senator EXON. Is that necessary?

Mr. BRODERICK. I think it is, because of the Air Carrier Access Act that was passed a couple of years ago. It requires airlines to sit anyone anywhere they want to sit, not to discriminate against any class of people unless there is a safety hazard declared by the FAA.

Senator EXON. I want to keep zeroing in on this safety hazard question.

I take it that you are firmly convinced that for safety purposes there should be some rules, regulations, laws, redtape, whatever you want to call it, to make certain that we do have the utmost in safety when we have an airplane land under normal circumstances. Is that correct?

Mr. BRODERICK. Yes, sir.

Senator EXON. If that is true, and I assume it may so be in your mind, why is it that the Federal Aviation Administration has not mandated that seats—S-E-A-T-S—not be placed in the rows where you have the exit doors?

I guess what I am saying is if this problem of safety is as important as you seem to think it is, then I think it would follow on that if you are dedicated to that, as you may be—and I am not questioning your motives here—I am just saying why is it, if that is so im-

portant, that we have not mandated that there be no seats, period, in rows where we have emergency exit doors?

We do not have seats, for example, on a commercial aircraft, where you sit in front of the main entrance door to the aircraft, after they button up. I am sure they could get a couple of more fares if they did have seats there, but we don't have that.

Why is it, or do you think it is inconsistent, that the FAA may have been lax, in not insisting on this if it is as important as you think it is?

Mr. BRODERICK. Senator Exon, in fact, we do have very detailed regulations regarding the clearance of the aisle width between the main aisle and the exit door.

Let me explain how we do that.

You are right. The main exit door has no seats there, in part because it is prohibited by the regulations. As doors and windows get smaller, the manufacturer or the airline gets, if I can use the word "credit" for fewer people using those exits. The smaller the exit and the smaller the credit and the fewer the number of people that go out the exit, the smaller the cleared aisle width that is required between the main aisle and that exit.

So, for example, a small window exit has a limited distance that is required. It is something, if memory serves, of about 12 to 15 inches between the main aisle and the actual small window exit, which only may have credit for a total of something like 20 people using that flow in a minute and a half.

On the other hand, if you look at the middle exit on a DC–10 or a 747, which is a double-aisled, twin exit, that exit is getting credit for flow rates that exceed 100 people per minute, and 110 people total through the exit.

So the aisle is sized to the flow through that in a period of time.

Senator EXON. Now you are getting into technicalities, and I am sure that maybe some bureaucratic figuring has justified that.

Let me ask the question in another way.

I travel on the airlines all of the time, almost as much as anyone in this room, I would suggest.

It has been my observation that, whether it is 12 inches, 3 inches, or an inch and a half, or whatever it is, on most of the airlines that I ride on today, there is a clear impediment to the clearance of emergency exits.

Wouldn't you think, if we are going to be as concerned as we are about the impaired sitting in a certain place in the aircraft, that we should mandate that all seats, whether they are one, two, or three, depending on the configuration of that airplane, should be removed, in front of an exit door? Wouldn't that dramatically improve safety under all conditions?

Mr. BRODERICK. Not if it does not increase the flow through the exit.

Senator EXON. Are you telling me that the airplanes taking off from National Airport today, where they have seats in front of an exit, that that is desirable? Is that safe in your word?

Mr. BRODERICK. It is safe, and it has been demonstrated that you can evacuate that airplane fully using at least the number of people in there, or usually more, with only half of the exits operating.

Senator EXON. Could you exit that aircraft faster by one second if you did not have any seats there?

Mr. BRODERICK. I am sure that you could, sir.

Senator EXON. By 1 minute, or 2 minutes, or 5 minutes?

Mr. BRODERICK. I cannot quantify it, sir. I am sure that it would, in some cases, increase speed.

Senator EXON. Well, the point that I have made, then, and I think very clearly, is that if the FAA are concerned about safety, as they seem to be in this case, there are some other safety measures that they could take that would be far more important for the overall safety of the travelling public, because I suspect there are not visually impaired people on most of the flights leaving Washington National.

Mr. BRODERICK. Senator, I agree with you.

One of the things that we started last year and intend to continue this year is looking at the entire question of aircraft emergency evacuations from a system viewpoint.

We are going to form a committee, and we hope that within 18 months to 2 years we will be able to produce a report which reviews the entire subject.

Senator EXON. Well, I don't think you need a committee on something like this. But that is the usual way we do things around here when we don't want to take action.

Thank you very much, Mr. Broderick, and thank you, Mr. Chairman.

Senator FORD. I will have to ask the audience to refrain from being excited about a statement from one Senator or another. This is in order to be fair to all Senators.

Senator Pressler, do you have any statement to make this morning?

OPENING STATEMENT BY SENATOR PRESSLER

Senator PRESSLER. Mr. Chairman, I have a statement for the record.

I am not a member of this subcommittee, but I am here to show my concern and to reaffirm my commitment to listen to all the facts concerning the Air Travel Rights for Blind Individuals Act.

I want to thank the National Federation for the Blind, especially Karen Mayray of Rapid City, for continuing to keep me informed on this issue.

Let me say that I was very moved by the gentleman from Nebraska's statement. I think he made a very telling point.

I look forward to reading the testimony from today's hearing. I must go on to the Banking Committee, where we are trying to find $100 billion somewhere, to pay for some of the sins of Texas, California, and other places. And I say that in a humorous way.

Senator FORD. You've got a State's right.

Senator PRESSLER. But I am here to show my concern about this issue.

I thank the chairman very much for putting my statement in the record, even though I am not a member of this subcommittee.

Senator FORD. Senator Kasten.

OPENING STATEMENT BY SENATOR KASTEN

Senator KASTEN. Mr. Chairman, thank you.

I am pleased that you have called this hearing today to explore the problems of the blind in air travel.

I think it is important to point out, Mr. Chairman, that with the passage of the Air Carrier Access Act of 1986, Congress has already expressed its desire for nondiscriminatory practices in the transportation industry.

Recognizing the significant abilities of those who are blind or visually impaired, we will hear today the FAA's testimony in support of the restrictions, as well as the testimony of the flight attendants and the airlines.

None of us wants to see any discrimination in access to air travel or any assault on the dignity of any group. Our review of this rule should be undertaken with this in mind.

Thank you, Mr. Chairman.

Senator FORD. Do you have any questions of the witness?

Senator KASTEN. Mr. Chairman, the only question that I have is with regard to timing.

I am told that the FAA has a draft proposal that has been either formally or informally circulated, and that the draft will become a formal proposal in the next couple of days.

Is that correct?

Mr. BRODERICK. Actually, it was published yesterday, Senator Kasten.

So, it now is published, and we have how many days to react to this proposal from the various groups represented here at the hearing and others who might be concerned or interested?

Mr. BRODERICK. At least 90.

Senator KASTEN. At least 90 days.

This is the beginning of the process of trying to put together the various parties and arrive at some kind of understanding. Is that right?

Mr. BRODERICK. Absolutely.

Senator KASTEN. Mr. Chairman, I think that it is an important process. As I just said, the Congress already has spoken on the issue of discrimination, or I should say the desire for nondiscriminatory practices in the air transportation industry.

We did that with the passage of the Air Carrier Access Act, which I spoke about in my opening statement.

I would hope that all of us can work with you to find a way through this. Our intent is clear. We want the FAA to take into consideration the point of view of those organizations represented in this room as well the views of individuals such as those who contacted me about this issue from Wisconsin.

I look forward to working with you, Mr. Broderick.

Mr. Chairman, thank you.

Senator FORD. Thank you, Senator Kasten.

This piece of legislation has taken on a great deal of interest, and it is obvious that several members of the committee, who are not members of the subcommittee, are in attendance today. We are very pleased that the Ranking Member is here this morning to show his interest.

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Senator Danforth, do you have a statement or some questions for the witness?

Senator DANFORTH. I have no statement, but I would like to ask the witness some questions.

Senator FORD. The Senator may proceed.

Senator DANFORTH. Mr. Broderick, I take it that the issue from the standpoint of the FAA is one of safety, and the question is how quickly can an aircraft be exited in case of emergency. Is that right?

Mr. BRODERICK. More precisely, sir, what we have focused on in this is how quickly can an emergency evacuation be initiated from an aircraft. Hence, our focus on the exit row seating.

Senator DANFORTH. Why is that important?

Mr. BRODERICK. The most important time in an emergency evacuation is that from the time the airplane stops until the time the evacuation is initiated. It is during this time our tests have shown that if you have a block or a holdup or a delay of any kind, it ripples back throughout the entire evacuation.

Conversely, if you promptly initiate an evacuation, because of the line or queue, as it's called, that forms behind the door, people who are slower to get into that queue will not impede the evacuation at all and, in fact, will not be slowed down themselves.

Senator DANFORTH. Is this a theoretical safety problem or is this a real safety problem? Are there instances where speed of evacuation is important? Once an airplane is down and it has to be evacuated, are seconds important, or is the exact number of seconds not so important?

Mr. BRODERICK. No. Seconds are critical.

In a wide-bodied aircraft, as I discussed in my summary statement, Senator Danforth, the evacuation flow rate can approach ten people per second out of that aircraft. Blocking only one lane leading to a double door for 5 seconds can hold up ten people.

We have seen clearly in accident after accident that involves fire, when people survive the impact, whether or not they are going to live that evening depends on whether or not they can get out quickly.

A few seconds can clearly cost lives.

Senator DANFORTH. Are there cases which you can cite where people have had to evacuate an airplane very quickly in order to save their lives, or is this a problem that is more theoretical than real?

Mr. BRODERICK. I can cite for you the DC-9 accident at Cincinnati in 1983, the 737 accident at Manchester, England, in 1985, the A-320 accident at Mulhouse, France, in 1988. It is clear that many people have died, not from impact and not from anything other than the inability to quickly exit the aircraft in the case of a fire.

Senator DANFORTH. I understood the FAA undertook a rulemaking, and has proposed regulations—is that right?

Mr. BRODERICK. We undertook the rulemaking because we determined, as participants in the regulatory negotiation process, following the Air Carrier Access Act, that this was a safety issue and needed regulation.

Senator DANFORTH. Did the rulemaking address solely the problem of the blind, or was it more broadly focused?

Mr. BRODERICK. Is it very broadly focused. It addresses functions. It addresses functions, like locating the exit, recognizing the instructions for use and understanding them, operating that exit, assessing conditions outside, like fire, whether there is water underneath the aircraft, or other hazards outside the aircraft, assessing whether or not the slide is in condition for safe use. It may not have deployed. It may be torn. It may have burned. It may have been detached.

There are a number of things that we address in the rulemaking, and we focus on one thing, the ability to perform those functions. Whether you are a mother with an infant child, a person, as Senator Exon's wife was, with a cast on, a person who is not ambulatory, people who have an inability to function because they are suddenly intoxicated during the flight—all of these things are taken into account. It is not merely directed at the blind.

Senator DANFORTH. So there is a whole group of people who, under this proposed rule, are not permitted in sit in exit rows?

Mr. BRODERICK. That is correct, sir.

That is the proposal.

Senator DANFORTH. Let me ask you this.

When you are on an airplane, and a stewardess says to you that you can't put your bags and so on in the exit row, why is that? It seems that there is so much space there, and you might try to bring a lot of things on the plane so you don't have to check them. Why can't you just put your bags there, where you can just reach down and pick them up, if you want?

Mr. BRODERICK. But if bags were there and people needed to use that emergency exit quickly, it is clear that any kind of luggage would impede their progress to that exit.

It is critical to keep it as free as possible of any any debris or, certainly, deliberately placed objects.

Senator DANFORTH. Thank you very much.

Thank you, Mr. Chairman.

Senator FORD. Thank you, Senator Danforth.

We are honored with the presence of the distinguished chairman of this committee, Senator Hollings.

Senator.

The CHAIRMAN. Thank you, Mr. Chairman.

Mr. Broderick, as I understand it—and you correct my understanding—a blind person says wait a minute here, now, you are equating me with children and drunks. And I, even though not sighted, am far more capable than a drunk and far more capable than a child. In fact, that is the only way I exist, through feel, sense of touch. And if you want someone who is alert, who can immediately respond in a crisis of that kind, with an emergency door, a blind person ought to lead the way rather than being forbidden to even sit there.

What about that rationale? What did your research show to disprove that?

How many blind people did you talk to? Any blind? Are there any studies to give the committee some idea why you came down on the side of equating them with a child or the inebriated?

Mr. BRODERICK. Senator, I certainly would never want to equate anyone with a handicap with either a child or someone who is ine-

briated. The point is that we have to try to enumerate all those people who might fall under this rulemaking.

We did, in fact, use, in the CAMI study that is at least in part the basis for this, 24 people who were either totally blind or partially blind, legally blind, or had some diminution of sight.

But it is clear, while I agree with everything you said about the capabilities of the blind people, they also have some limitations. They are unable, for example, to assess whether or not an exit should be opened because of fire or smoke outside.

The CHAIRMAN. Now let's say that I'm sitting there myself. How do I determine any better than the blind person whether an exit should be opened? Let's put you or me there. We are sighted, and you are saying that the blind person cannot decide it but that you and I can.

What is there other than sight? Do we see something going on any better in an emergency that the blind would understand to be an emergency?

Mr. BRODERICK. Yes, sir.

You would see either the fire, if there were a fire underneath the aircraft, which is often the case in accidents, or you would see the thick, black smoke, billowing toward the door.

This, in fact, happened in the Dallas accident last year. A person began to open a door, recognized that smoke and fire would come in, and immediately closed the door and went to another exit.

In other accidents, where people have opened doors and allowed smoke and fire to come in, it accelerated the process of burning the cabin and, in fact, made it more lethal for more people.

You should be able to determine whether or not you are going to make the situation worse by opening the door before you open it. Many doors, in fact, have special windows placed in them just for that purpose.

The CHAIRMAN. It is contemplated that the door would be opened or not opened at my volition, then, because I am seated there, or only when the flight attendant or tells me to open or close the door? In other words, I can do it on my own. Is that what we say? Is that considered okay in an emergency?

I am seated there, just seeing or not seeing the fire out there. I think I would still hesitate until someone in the crew indicated whether to open that door.

Am I right or wrong about that?

Mr. BRODERICK. You are absolutely right. It depends on the exact situation.

They may give oral instructions. They may give hand signals. You may be seated at a window exit over the wing, near the middle of the plane, where there are no crew members, and you try to look around and figure out what people are being told to do and in which direction to move, and whether or not to open that exit.

The CHAIRMAN. And from your studies, you found that blind people could not respond?

Mr. BRODERICK. It is quite clear that they could not perform some of these functions. Some other functions, that are very important, and, in fact, life threatening if not performed properly, are assessing the condition of the slide. If there is a fire on the outside of the airplane, the slide may, in fact, catch on fire and burn at

some point. You certainly do not want to be using the slide when that happens.

The slide may rip from high heeled shoes, or it may become detached from too many people being on it at one time.

Any one of those conditions can present a lethal situation literally from someone who tries to use the slide when it is unusable. You are talking at least about the equivalent of going out a second or third story window of a house or a building.

The CHAIRMAN. Now I'm confident that you are acting in good faith. But the RAA conducted these studies back in the 1970s and based on the data collected, they declined to regulate. In other words, they did not enunciate any kind of emergency procedures or exceptions with respect to the blind or, crassly put, characterizing the blind as handicapped.

Now that has persisted for the past 15 years. Has there been any evidence to controvert that whatsoever? Has any blind person gotten in the way, or wasn't able to get the orders, or understand, or improperly open the door?

Mr. BRODERICK. Well, we have a cabin safety data base, where we keep all the anecdotal evidence of anything affecting cabin safety. It has over 3,000 entries at CAMI over the last 10 or 20 years or so.

About 5 percent of them relate to handicapped people, some of those relating to blind. Some show good performance and some show bad performance.

I cannot point you, Senator, to a list of accidents where I can attest to literally the deaths of other passengers because a blind person or an otherwise handicapped person was unable to perform a given task. But, in evaluating the situation, the experts, scientists, and safety specialists who have looked at it, have clearly concluded and stated that the seating of people with certain handicaps in the exit row, and only in the exit row, is inappropriate.

As I indicated earlier, that same feeling is held by our colleagues in Britain.

The CHAIRMAN. Well, that would indicate something in other countries.

They have convinced me that they can see better than the sighted person in these emergencies. They practice, they are alerted. I've never thought about getting out of the thing in an emergency, but they have, and they have practiced it and otherwise.

But you don't find that the practice, the instructions, and their alertness for this particular situation and condition has put them in a better stead than even a sighted person? They have maintained that, and I just wonder what your opinion is.

Mr. BRODERICK. Actually, I would agree with that.

The difficulty, though, is that not all blind people are going to put the degree of study, practice, and effort into doing that that some will.

The CHAIRMAN. How many have and how many have not, as far as your studies show?

Mr. BRODERICK. I have no idea, sir. I have no idea.

I do know, because some members of the groups have said so, that they have practiced. But, as I indicated earlier, United Airlines is a typical example. And, without getting it exactly to a plus

or minus one or two, they have about a dozen different emergency exits in their fleet.

Now, when you add to that American Airlines, Continental Airlines, and you go on down the list, you can see that the amount of practice is very significant if you are to be proficient at everything. Then, after an accident, when the airplane is maybe turned upside down and you have been through quite a traumatic physical, certainly mental, event, you have to remember which door you are at or which window you are at, and then you still cannot perform some of these other functions, which may in that event be critical.

The CHAIRMAN. FAA Administrators come and go. The last FAA—and I don't know which one you were associated with; I am thinking of my conversations with Alan McArtor. In fact, I was led to believe, say a year ago, talking with Mr. McArtor that the FAA was going to make certain that blind people were taken care of and not discriminated against, and that it was all right, and they were moving in the direction of our bill, rather than moving in the direction of your finding and regulation, which I understand was issued yesterday.

Mr. BRODERICK. Yes, sir. It is a proposal, not a regulation yet.

The CHAIRMAN. Were you there a year ago, working with him?

Mr. BRODERICK. Yes, sir. I was.

I think what the Administrator was probably referring to was diligent and repeated attempts to try to resolve this issue in the regulatory negotiations session that followed the Air Carrier Access Act.

We are, indeed, saddened that we were unable to satisfactorily resolve this issue and address what we believe, honestly, are serious safety concerns in that session. Had we been able to do that, and had we been able to agree on a regulation which essentially took care of our concerns, we would not be here today.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator FORD. Thank you, Senator Hollings.

Does anyone else have anything to say?

[No response]

Senator FORD. Mr. Broderick, we thank you for your patience in being with us this morning. I am sure that you will hear more from this legislation and from your proposed rulemaking.

Mr. BRODERICK. Thank you for the opportunity to be here.

Senator FORD. Thank you, Tony.

We now have two members to call for our first panel. They are Mr. Kenneth Jernigan and Dr. Harold W. Snider.

Mr. Jernigan, you may proceed. If you want to submit your total statement for the record, we will be glad to take that. You can highlight it, or however you care to proceed.

It is your choice.

STATEMENT OF KENNETH JERNIGAN, EXECUTIVE DIRECTOR, NATIONAL FEDERATION OF THE BLIND

Mr. JERNIGAN. Thank you, Mr. Chairman.

Mr. Chairman, I am Kenneth Jernigan. I am executive director of the National Federation of the Blind.

As you have said, this is dealing with the Air Travel Rights for Blind Individuals Act, S. 341, introduced by Senator Hollings and others last month.

We are pleased, Mr. Chairman, that you and Senator McCain are original cosponsors of the bill.

The Air Travel Rights for Blind Individuals Act is necessary legislation. The blind, who have come here this morning from throughout the United States, can tell you from personal experience that this is so.

Today, the situation is such that no blind person in this country can board a plane without fear of harassment, public humiliation, and possibly arrest and bodily injury.

I have been riding on airplanes for more than 35 years, and I can say from firsthand knowledge that it was not always like this. Prior to the 1960s, blind people almost never experienced problems in air travel. We bought our tickets, went to the airport, boarded the plane, traveled to our destination, got off, and went about our business, just like everybody else.

If one of us wanted help in boarding a plane or making a connection, the assistance was requested and given without a thought.

Then, things began to change.

Ironically, the problem was caused by the 1973 amendments to the Federal Rehabilitation Act and the growing emphasis on affirmative action and prohibition of discrimination against the handicapped. You would have thought that this would have been a positive thing; but it was not, at least not for the blind.

Airline personnel and Federal regulators did not become knowledgeable overnight or lose their prejudices just because somebody told them to engage in affirmative action or nondiscrimination. Mostly with respect to air travel, the blind did not need any affirmative action. We were doing just fine as it was. But the airlines and the Federal regulators just would not have it that way.

They began by lumping all of what they perceived to be the handicapped together, and you will hear that a lot—wheelchair users, the blind, the deaf, the quadriplegic, the cerebral palsied, and everybody else, including, very often, small children.

Next, they cataloged what they believed to be the problems, needs, and characteristics of these groups, and then they assumed that each item on the list applied to every member of every group. The resulting mythical composite was a monstrosity, totally helpless, totally in need of custody, and totally nonexistent, except in the minds of the airline officials and the Federal regulators.

When we objected and insisted on our right to the same freedom of travel that other Americans have, the airline officials and the Federal regulators reacted with anger and resentment. Since nobody wants to admit to prejudice and ignorance, they said their treatment of us was based on safety. After all, how are you going to fight safety?

In 1986, as you know, Congress passed a law specifically prohibiting discrimination on the basis of handicap in air travel, and even that law has now been twisted to the exact opposite of what Congress meant.

Today, we are faced with a proposed regulation by the FAA in response to the 1986 law, and it is not by accident that that regulation was published just prior to this hearing.

Of course, the regulation is made in the name of safety; but it is not a question of safety at all, but of human rights and the freedom to travel. More specifically, the regulation, of course, prohibits blind persons from sitting in exit rows on airplanes.

But much more than exit row seating is involved. If the Air Travel Rights for Blind Individuals Act is adopted, a signal will be sent to the airlines and the FAA, and if the legislation is not passed and the FAA rule is allowed to stand—and we've just got 90 days—a signal will also be sent: that the blind are fair game for any kind of treatment the airlines and the FAA want to give us, just as long as it is done in the name of safety.

You know, if the abuse we are taking from the airlines had anything to do with safety, we would not object. But it does not. In all the instances cited this morning, blind people did not cause those problems.

The truth is that we are being made victims of a misdirected and misapplied Federal policy that has gone irrationally wild. Let me just give you a brief example.

In early February of this year, the blind were in Washington to talk to Congress about, among other things, the unreasonable treatment we are receiving from the airlines.

Going home from that meeting, Verla Kirsch, a blind woman from Iowa, was assaulted and publicly humiliated by Midway Airlines flight personnel. Even though Mrs. Kirsch's white cane was on the floor in the approved FAA manner, the flight attendant, over her protest, took it from her, returning it after takeoff. On the descent into Chicago, two Midway flight attendants sneaked up on Mrs. Kirsch, hunkered down, grabbed and lifted her legs—yes, I literally mean what I am saying—and, in her words, "yanked the cane from under my feet, bending the cane and nearly breaking it."

On the trip from Chicago to Des Moines, still on Midway, Mrs. Kirsch found that the word had gone ahead of her; but this time she was prepared and refused to be caught off guard. After publicly harassing her, flight personnel found in their own manual that Mrs. Kirsch was in the right and that blind persons, according to Midway's own policies, may keep their canes at their seats. But the damage was done.

Imagine the spectacle, the embarrassment, and the public humiliation. This, and not just exit row seating, is what is really at stake with the proposed FAA rule, with this hearing, and with the passage of the Air Travel Rights for Blind Individuals Act.

Is it really safe for blind persons to sit in exit rows? Are there, in fact, times when it would be a plus? Here, in brief, is the sworn statement of a pilot:

I, Jared Haas, being first duly sworn, depose and state: I have been a pilot for many years. I currently fly 727 aircraft, and I have been employed to do so since June of 1974. I am familiar with a number of blind people, and I am generally familiar with the capacities of the blind. In an emergency situation, there are circumstances in which it would be helpful to have an able-bodied blind person seated in an emergency exit row with a sighted person. In those cases in which there is smoke in the cabin, an able-bodied blind person, being used to handling situations without

sight, would be able to assist with more facility in the evacuation. An able-bodied blind person would not hinder an emergency evacuation.

That, Mr. Chairman, is what a pilot says. And he is not just talking theory.

I am aware of one case at least in which it was put to the test.

In the early 1980s, Lawrence Marcelino, a member of the board of directors of the National Federation of the Blind, was flying home from Baltimore to California, and when the plane got ready to land in San Francisco, there was a problem. The landing gear wouldn't come down. The plane landed on the foam, and the lights went out. An emergency evacuation occurred. It was night, and there was near-panic. It was Marcelino who got to the exit and helped the sighted passengers find it.

So far as I have been able to determine, there is not a case on record in which a blind person has been involved in the blocking of an exit or the slowing of traffic in an emergency. And, as I have just told you, I know of at least one instance, the one involving Marcelino, in which blindness was a positive asset. Yet the FAA and the airlines keep talking to us about safety.

I want to say just a word about their CAMI studies, the Civil Aero Medical Institute studies.

What evidence do they have?

I have carefully studied the FAA's proposed rule. They rely heavily on the tests made in 1973, by the Civil Aero Medical Institute, or CAMI. The FAA's own words discredit those tests.

In their report, CAMI said that blind passengers caused a slight slowing of the evacuation of an airplane. However, for the critical portion of the tests they did not use real blind persons, but sighted persons who pretended to be blind.

These sighted persons would have no experience in the techniques used by the blind, nor would they have the background to know how to function with skill and speed under blindfold. The real blind persons were not allowed to open the emergency exists—you heard that earlier here—or to go down the evacuation slides. It was a matter of safety, done for their own protection. They were allowed to walk from their seats to the emergency exits.

Moreover, the selection of the people who were to be tested is interesting. The sighted, the so-called nonhandicapped, were FAA employees, or people recruited through the University of Oklahoma's Office of Research Administration. The blind—not the simulated, but the real—were recruited from the Oklahoma League for the Blind, which operates a sheltered workshop. FAA employees are likely to be familiar with aircraft, and probably are frequent fliers. In short, the sighted who participated in that test were selected for maximum success.

Federal statistics tell us that a large percentage of sheltered workshop employees are multiply handicapped. In addition, their low wages and limited opportunities make it unlikely that they are regular air travelers.

In short, the blind participants, even when they were real and not simulated, were selected for poor performance.

I am not suggesting that all of this was consciously done. Nevertheless, it was done. It is not very difficult at all to see what the results would have been if blind frequent air travelers, like some of

us in this room, had been tested against sighted sheltered shop employees, or, for that matter, against the FAA personnel who were actually used.

But we do not have to speculate about the competence of blind persons to perform in emergency evacuations of airplanes, Mr. Chairman.

On April 3, 1985, members of the National Federation of the Blind—and that is a lot later than the CMI tests—took part in the evacuation of an airplane at the Baltimore Airport. The airplane was real, and the blind persons were real. They were not simulated, and they did not simply walk from their seats to the exits, but went all of the way, opening the emergency exit, deploying the evacuation slide, and jumping out. I know, for I was there. I jumped out of that airplane twice.

The test made by the National Federation of the Blind was much more realistic than the one performed by CAMI. We wanted approximately equal number of blind and sighted persons so that we could see whether there was any difference in their speed and efficiency. Our first problem was to find competent sighted participants.

One person had back problems; another had a bad heart; another had foot problems; and so it went. But in the real world of everyday flying, every one of these people would have qualified for exit row seating, without a question or a thought.

We videoed that test evacuation, Mr. Chairman, and I have the tape here with me today, to submit as part of the record. I have done so.

If you run it once through at normal speed, you will see passengers seated in a plane, then moving to the exit, and going down the slide. Remember, they are a mixture of blind and sighted. Mostly, you will not be able to tell the difference between the sighted and the blind. They move with equal ease.

When you run the tape slowly, stopping at critical points to study it, what it tells you is damning to the FAA's case. The airline personnel said we should move quickly, in a double line. But a flight attendant was standing at the exit, partially blocking it. I know, for I had to go around her.

In a real emergency, I would not have been slowed by that flight attendant, as I was in the test. I would simply have picked her up, placed her gently, but firmly, on the slide, and followed her.

Standing beside the flight attendant, Mr. Chairman, you will see a male airline employee. He slows the flow of traffic by peeking around the flight attendant, to look down the slide, to see whether the blind are making it. The flight attendant also takes time out to peek, further blocking the exit.

You will observe that one of the passengers has a dog guide. He was moving quickly to go down the evacuation slide, but was slowed by the male flight attendant, who insisted on trying to tell him how to do it. The female flight attendant kept reaching her arm back—and you can see it into the video—into the flow of traffic, presumably trying to help, but, in reality, impeding the evacuation.

In one instance, it can be seen that she locks elbows with a female evacuee, and then grabs at her, causing that passenger to lose balance. Nevertheless, the descent was made safely.

As I have already said, in the real world, the airline personnel would probably not have had the opportunity to slow the evacuation. In any case, the tape speaks for itself.

Finally, Mr. Chairman, I want to say this.

Last week, I had occasion to fly from Denver to Washington, and what happened to me is illustrative of the problem that we are facing.

Although on many other trips I have been harassed and threatened, nothing like that happened on this one. Everybody was friendly and good tempered, and I am sure the flight attendants were not even aware that their actions were noteworthy. But you be the judge, Mr. Chairman.

Put yourself in my place.

I was traveling with my sighted wife. Shortly after we took our seats, a flight attendant came and very pleasantly and politely said that she had to give me a special briefing.

She asked me to feel of the oxygen mask, which I had done 500 times, and then said that she would like me to fasten and unfasten my seatbelt for her.

Sighted persons are neither required to look at nor listen to briefings, and certainly they are not asked publicly to demonstrate that their capacity to fasten and unfasten a seat belt. Nevertheless, I complied with good temper and without protest.

But, you may say, what is the big deal? Such treatment does not really mean that you are being treated like a child, or thought of as one. Perhaps. But a few minutes later, a second flight attendant, again, a most pleasant individual, came to my seat and said to my wife: "Has he had his special briefing yet?"

I smiled and replied, "Yes, he has had his briefing."

The flight attendant gave a small, embarrassed laugh, and the rest of the flight proceeded without incident. But what I have just told you, Mr. Chairman, has far more significance than superficial appearance would indicate. It translates into a general public feeling that the blind are incompetent and unable to compete.

Put to one side the damage it does to the self-image of the blind who are still in doubt of their own worth—or, for that matter, what it would do to any of us, whether we are blind or sighted—especially if the occurrence is not isolated, but a part of an everyday pattern.

This simple incident, which seems so innocent and unimportant, is the very essence of our problem. It translates into unemployment, lack of acceptance, low self-esteem, and second-class status. Is it all right, even praiseworthy, for other Americans to insist on their rights, but not all right for those of us who are blind? Are human dignity and freedom meant for everybody else in this country, but not for us? Is the American dream exclusively the property of the sighted, or is it meant for us, too?

I believe it is meant for all of us. I think, Mr. Chairman, that the Congress and the public think so, too.

I believe that, as you learn the facts, you will not permit the airlines and the FAA to continue what they are doing to the blind.

Yes, we are talking about safety, but not the kind contemplated by the FAA in its discriminatory rule. That is why we are asking for your help. That is why we are asking you to pass, and pass quickly, the Air Travel Rights for Blind Individuals Act.

Mr. Chairman, I will be glad to answer questions.

Senator FORD. Thank you very much, Doctor.

I understand, Mr. Frye, that you have a short statement you would like to make.

You may proceed at this time.

STATEMENT OF DAN FRYE, DUE WEST, SC

Mr. FRYE. Thank you.

Mr. Chairman, my name is Dan Frye. My mailing address is P.O. Box 491, Due West, SC.

As a student at Erskine College, a private, 4-year, liberal arts institution, I am presently pursuing degrees in history and government in preparation for law school. I would like to take this opportunity to express appreciation on behalf of both myself and the National Federation of the Blind for your time and attention.

The purpose of this hearing is to address the problem of habitual abuse that the blind of America are subjected to when we fly.

This forum's objective should be to analyze the arrests of several self-respecting blind consumers, to consider the cancellation of flights because of the perceived obstinance of yet other blind passengers, and to ponder the public ridicule and contempt that the insensitive airline industry manages to incite during the course of "on plane negotiations."

Finally, this hearing concerns the solution to such persecution, which is embodied in the sentence-long legislative initiative of the National Federation of the Blind, and known to you as S. 341, the Air Travel Rights for Blind Individuals Act.

As a blind individual, I believe that the inability to see need not adversely affect any aspect of one's life. I am convinced that with proper training and opportunity, the aspiring blind of this nation are able to compete on terms of equality with their sighted colleagues.

Several of these alternative techniques that I have alluded to include cane travel, braille, and typing skills.

In my daily travels, both locally and internationally, I carry a long, white cane, that serves as a mobility tool; but, more importantly, this conspicuous symbol represents dignity and independence.

I also rely on braille, the medium that secures literacy for the blind, to help me fulfill both my academic and extracurricular responsibilities.

Lastly, the ability to type is also essential for successful communication and performance in a predominantly sighted world.

These are only several examples of how innovative approaches manage to complement blindness and make nothing more of it than a physical characteristic.

Despite these logistical accomplishments—cane travel, braille, and typing—there remains one prerequisite to acquiring "first class citizenship" in American society that the blind have yet to

universally achieve. I am referring to the elusive concept of "social misconception."

It—"social misconception"—manifests itself in many ways. The press often serve to perpetuate misconceptions about blindness. Furthermore, literature frequently depicts blindness in a negative light.

I believe it would be fair to say that the 70-percent rate of unemployment among the employable blind can be partially attributed to social misconception.

The belief that blindness is synonymous with helplessness is also an offspring of social misconception.

I arrived at Baltimore-Washington International Airport at 10:30 a.m. on August 24, 1987, and requested verbal direction to the gate from which I was to leave. After rejecting escort in a wheel chair—yes, a wheel chair—I located my gate and boarded Piedmont's Flight 225, without incident.

Once I had assumed my assigned seat, 9A, I was approached by a flight attendant who told me that because I was blind, I would have to relinquish my arbitrarily assigned chair because it was adjacent to an over-wing exit. I then inquired as to whose policy this was. She advised me that it was the policy of the Federal Aviation Administration.

As a member of the National Federation of the Blind, the Nation's oldest and largest consumer organization of the blind, I knew better.

I proceeded to tell her that no such policy existed and that, indeed, legislation was on the books that prohibited such a policy. Clearly uncomfortable with the pending confrontation, the flight attendant went to consult with her superiors.

After a 10-minute wait, I received a visit from the hostile captain of Piedmont's flight 225, who exclaimed that if I did not move, the plane would not either.

I told him to do what he thought was necessary. He threatened to call the police and to have me arrested for disturbing the peace. I told him that I was quite comfortable where I was, quite comfortable, and that he should do what he thought was necessary.

During the course of these diplomatic discussions, a young journalism student from Carson Newman College began taking pictures of the entire affair. Regardless of the ironic fact that there were members of the press on the plane, there was no convincing an impatient, and often verbally abusive, load of passengers that this confrontation was not planned.

Airline officials added insult to injury as they continued to attribute the flight's delay to the uncooperative blind passenger in seat 9A. "Get the blind SOB off the plane," came a hostile voice from the back of the aircraft. "You're an insensitive jerk," said a lady who was anxious to meet her 3-year-old child in Charlotte.

The climate was tense and the plane was hot, and there seemed to be no end in sight.

Baltimore-Washington International's security then boarded the plane and engaged in discussion with the aircraft's pilot. I would like to acknowledge Ms. Mary Ellen Gavias, president of the Baltimore Chapter of the National Federation of the Blind of Maryland

for her work and subsequently the refusal of the security forces to arrest me.

Having no other alternative, the captain of Piedmont Airline flight 225 announced that the flight was canceled, after a delay of some 2-hours. All passengers were taken off the plane and rebooked. Once the plane was empty, I was escorted off the plane by hostile airline officials.

Some 30 minutes later, all of the passengers, including me, were placed back on the same jet. I was placed in row 6C, an acceptable seat for the blind. During the course of our flight from Baltimore to Charlotte, the plane's captain announced five times—and for those of you who frequently fly, it is about an hour from Baltimore to Charlotte—that he was sorry for the delay and that he hoped that our next flight would be less eventful.

So did I. So did I.

In an attempt to further intimidate me, two airline attendants sat across the aisle from me, discussing the entire affair in raised voices.

I have never been so humiliated, insulted, and mistreated in my entire life.

I find myself, even today, apprehensive about flying. This should never have happened.

Clearly, I could have reached my destination sooner and have avoided alienating 200 passengers, but not without a clear conscience.

The issue of exit row seating is a matter of social significance. It affects the public image of blindness. It speaks to the ability of the blind. It is our entire problem in microcosm.

Discrimination, defined as unreasonable and detrimental classification, is what I am speaking of today. The classification in question is clearly unreasonable, as in the event of an airline emergency, one's vision would be obstructed by smoke and fire. Further, airline officials serve alcoholic beverages in excess to passengers who sit beside exit row doors. This, undoubtedly, has the potential for adversely affecting the passengers' abilities to respond in an emergency situation. Finally, if ability to respond is so important, it would seem to me that the row would be left vacant, as there is no way of accurately determining what hidden disabilities frequent fliers might have.

It, denying the blind the right to sit in an exit row seat, is detrimental because it serves to perpetuate false social assumptions about the abilities of the blind, false social attitudes about the abilities of the blind.

I contend that a blind person, properly trained in mobility, I contend that all blind persons, properly trained in mobility, are as likely to escape and assist others in an emergency situation.

The legislation in question is, in my opinion, the only alternative for solving this problem. Bureaucratic battles and governmental manipulation have thwarted every other attempt to address this matter.

Although the Senate cannot legislate opinion, something that would not be desirable, it certainly can help to establish a significant social trend.

Thank you very much.

Senator FORD. Thank you, Mr. Fry.

Now, Dr. Snider, if you want to highlight your statement, the total statement will be included in the record. We just received your full statement here at the dias. So if you would like to highlight it, that would be fine.

STATEMENT OF HAROLD W. SNIDER, EXECUTIVE DIRECTOR, SOCIETY FOR THE ADVANCEMENT OF TRAVEL FOR THE HANDICAPPED

Dr. SNIDER. Thank you very much, Mr. Chairman. I am Harold Snider. I am the executive director for the Society for the Advancement of Travel for the Handicapped.

SATH is a travel industry organization, whose 3,500 members are, for the most part, travel agents and tour operators in this country who specialize in improving travel and tourism opportunities for handicapped people and who specialize in making travel arrangements for handicapped people.

Quite frankly, Mr. Chairman, it is darn near impossible for our members to adequately make travel arrangements for blind people because of the discrimination that now exists by the airline industry. They cannot even issue boarding passes without the fear of all kinds of action by both the passengers and the airline.

We were participants in the regulatory negotiation process to implement the Air Carrier Access Act, and under that act, the Department of Transportation had 120 days to issue regulations, which were signed into law on the second of October 1986.

More than 2½ years after the enactment of the law, there are still no regulations to protect disabled passengers from discrimination by air carriers. To say that there is bureaucratic defiance to implementation of the act is certainly an understatement.

In mid-1987, groups representing the interests of disabled persons and air carriers agreed to participate in a process of regulatory negotiation in order to write regulations which would implement the Air Carrier Access Act. A Federal advisory committee was convened, and negotiations broke up, without closure, on November 6, 1987.

This Federal advisory committee, by the way, still remains in existence.

The most difficult subject discussed in the regulatory negotiations was exit row seating. It should be noted here that the Federal Aviation Administration was not, contrary to Mr. Broderick's statement, a full participatory player in the regneg process. Its employees acted in a technical advisory role to the staff representing the Office of the Secretary in the Department of Transportation, who were the principal U.S. Government representatives in the regneg process.

For the first 3 months of that process, the lead spokesman for the FAA was Mr. Rick Kramer, of the Flight Standards Administration.

What did Mr. Kramer say?

Mr. Kramer repeatedly stated that there was no issue about whether blind persons represented a greater safety risk than other passengers who might be seated in aircraft exit rows. He said that

he and his colleagues had carefully examined evidence gathered by the Civil Aero Medical Institute, CAMI, in the early 1970's, and concluded that no cause existed for regulation.

There was strong outside pressure by air carriers on the FAA about this issue, as well as a national newspaper advertising campaign by the National Federation of the Blind.

Ms. Irene Mields took over as lead spokesperson for the FAA. In September and October of 1987, the FAA openly sided with air carrier groups by presenting slanted evidence from the CAMI tests done in the early 1970's.

The regulatory negotiation process collapsed because on November 6, 1987, DOT and FAA announced that the FAA would be undertaking separate rulemaking on exit row issues.

Groups representing disabled persons unanimously decided not to participate in further negotiations because of the bad faith of Government representatives in removing one of the major issues from the table for possible negotiation.

Over the past 17 months, the FAA has been drafting a proposed rule on exit row seating. In June, 1988, DOT published a notice of proposed rulemaking for regulations to implement the Air Carrier Access Act. The proposed regulations are, in our opinion, substantially different from proposals agreed upon by the parties during the regneg process.

Proposed FAA regulations on exit row seating were published by the FAA in "The Federal Register" for March 13, 1989.

Having had the opportunity to examine leaked drafts of these regulations, as well as the DOT notice of proposed rulemaking, we believe that Government bureaucrats have absolutely defied both the letter and the spirit of the Air Carrier Access Act.

We believe that the FAA and DOT regulations will make it substantially more difficult for blind and disabled persons to fly on commercial air carriers than before the passage of the Air Carrier Access Act. This bureaucratic defiance to the intent of Congress and the President was clearly evident to us during the regneg process, when Government and air carrier negotiators attempted to force groups representing disabled people into negotiating away their civil rights.

There is no doubt that by statute the Congress and the President intend for the FAA to have jurisdiction over airline safety matters. However, there is the useful oversight role of this committee, which, through legislation and other means, can overrule Government bureaucrats when they overstep the bounds of good sense and reason.

The FAA has had its test results on handicapped passengers for more than 15 years, but only now, Mr. Chairman, based on those demonstrably flawed results, is it proposing to regulate.

Why, one may ask, are they doing it? Let me tell you.

It is unfortunate, but necessary, for SATH to tell this committee why we believe that FAA employees have overstepped the bounds of good sense and reason. In order to do this, we must enter into a discussion of personalities, which is, to say the least, Mr. Chairman, very regrettable.

We feel certain that the decision to engage in rulemaking on exit row seating was not made by safety experts within the FAA. We

believe it was made by Ms. Irene Mields, an FAA staff attorney, who, because of the blindness and lack of capacity of an aged relative, believes that blind persons represent a hazard in air travel. She exhibited her prejudices in public during the last 3 months of the regulatory negotiation process on the Air Carrier Access Act.

She and several of her colleagues within the Office of the General Counsel in the FAA, with the support of the airline industry, have convinced FAA administrators that rulemaking is necessary. This rulemaking is not based on current safety tests, done with real blind persons.

Rather, in our opinion, Ms. Mields has prejudices against the blind, which she seeks to hide in the cloak of safety.

It is our view that Ms. Mields and other FAA officials have mistakenly concluded that blind persons, as a class, represent individuals who are a substantial safety risk, an unfounded supposition, not supported by evidence of any sort.

It is our opinion that this conclusion is based on myths and prejudicial misconceptions, and not on the facts.

We believe that Ms. Mields has, furthermore, taken upon herself a personal crusade to protect the public against so-called unsafe blind air travelers.

The committee must not allow any Federal agency or its employees to wrongfully persecute a class of citizens because of prejudice. We call upon this committee to investigate the actions of Ms. Mields in formulating the proposed FAA exit regulations.

Let me turn to the crux of this hearing, or what ought to be its crux, the safety issue.

Our members combined have thousands of years of experience in serving blind and handicapped travelers. We represent the majority of travel agents and tour operators who make specialized travel arrangements for disabled persons.

There is no demonstrable evidence to show that a blind person has ever impeded the emergency evacuation of an aircraft. In fact, there is evidence that blind persons in an aircraft evacuation have successfully opened and escaped through emergency exits.

One of our members, Andrea Moore, from Texas, testified to this at the regulatory negotiations open hearings on September 9, 1987.

There is no evidence to show that blind persons cannot effectively open emergency exits as efficiently as others. There is also no evidence to show that blindness impairs the ability of the passenger to judge whether or not an exit should be opened.

There are many passenger groups who cannot, for one reason or another, effectively open emergency exits. These passenger groups cannot be easily spotted by airline personnel, and cannot be prevented from sitting in exit rows.

There is persecution by air carriers of one particular group of passengers, namely, the blind and visually impaired. Blind persons who use white canes or dog guides can be easily spotted by airline personnel. However, statistically, most persons who are legally blind do not use white canes or dog guides, and are impossible to identify. Thus, only blind persons who can be identified by the use of a cane or dog can be persecuted by airline personnel.

The safety issue is spurious, Mr. Chairman. Even if further tests should occur, blind persons who use canes or dogs are being dis-

criminated against because they are required to adhere to a higher standard of safety than the rest of the traveling public.

The requirement to adhere to a higher standard of safety is just as discriminatory for blind persons as it was for blacks before the Civil Rights Act of 1964.

Several old hands in the airline business have told me that blacks were not seated in exit rows or hired as flight attendants, or pilots, for that matter, because they were considered slow and lazy, and the life of a black person was not considered as valuable as that of a white person.

Could this prejudice be supported by safety data? Of course not. Did black people have to adhere to a higher standard of safety than others? Of course not.

But black people can be easily identified by airline personnel, and they could be discriminated against for no good reason whatsoever. The same thing is happening to the blind. If you are sufficiently blind to use a cane or dog guide, you may be discriminated against by airline personnel. But if you are legally blind and do not use a cane or dog, then you can pass as "normal." If you were so black that you could easily be identified by airline personnel, you could be discriminated against. However, if you were only a little bit black, or a little bit brown, it did not matter. Racial prejudice and prejudice against the blind are not good public policy, Mr. Chairman.

We are not talking about a safety standard to which everyone must adhere, where passengers are informed about their responsibilities or tested for their abilities before flight.

S. 341 will eliminate the prejudicial requirements, the higher standard of safety for the blind. The FAA and the airlines may say that they would like to test the ability of blind people in simulated emergency evacuation of an aircraft. Such tests would be flawed and prejudiced from the outset, because blind persons simply represent a broad cross section of the traveling public who happen to have the characteristic of blindness, along with their other traits.

In conclusion, Mr. Chairman, I call upon this committee to mark up and vote on S. 341 as a matter of extreme urgency. You are being asked to make public policy based on fairness and equality, and not based on myth, prejudice, or a personal crusade.

We call upon this committee, the Congress and the President, to promptly enact S. 341, so that blind persons may travel by air with safety, dignity, and freedom, and without fear of discrimination.

Mr. Chairman, we would like to thank the committee for this opportunity to testify, and I would be delighted to answer your questions.

[The statement follows:]

Testimony of Dr. Harold Snider at the hearing of the Aviation Subcommittee, Committee on Commerce, Science and Transportation, United States Senate on Tuesday, March 14, 1989.

SUBJECT: "Air Travel Rights for Blind Individuals Act," S.341.

Mr. Chairman, Members of the Committee, Ladies and Gentlemen:

I am Dr. Harold Snider, the executive director of the Society for the Advancement of Travel for the Handicapped, and also, currently president of Access for the Handicapped, Inc. This testimony is being presented on behalf of the officers, directors and 3,500 members of the Society for the Advancement of Travel for the Handicapped. We would like to thank the Committee for this opportunity to testify on issues of vital importance to disabled Americans, particularly the blind.

The Society for the Advancement of Travel for the Handicapped (SATH) is a travel industry organization founded in 1975. SATH has, as its members, travel agents and tour operators, hotel and airline executives, as well as disabled persons themselves. Disabled persons play a leadership role in SATH along with their able-bodied colleagues. Here are but a few examples of SATH activities. Over the last 14 years, SATH has held a variety of educational conferences in Orlando, Boston, Florence Italy, Amsterdam the Netherlands, Washington, D.C., Vienna Austria, Los Angeles, New York and London England. In 1981 and 1982, SATH sponsored Congressional luncheons in co-operation with the Congressional Travel and Tourism Caucus. In February, 1983, SATH sponsored a two-day conference with the U.S. Travel and Tourism Administration on improving and promoting travel and tourism opportunities for people with disabilities. On November 7, 1983, SATH presented a seminar on travel for people with disabilities at the convention of the National Tour Association in Houston, Texas and repeated that seminar at its Baltimore, Maryland convention in 1987. Also at the National Tour Association convention in Houston, the Chairman and Founder of SATH, Mr. Murray Vidockler received the Travel Leader of the Year Award for his work on behalf of travel for the disabled. Mr. Vidockler also serves as a member of the Advisory Board of the Congressional Travel and Tourism Caucus. On November 9, 1983, Pace University, in New York City, and SATH jointly sponsored a one-day seminar on travel for the disabled. On February 16, 1984, SATH co-sponsored a similar seminar with the New School for Social Research in New York. In 1984 and 1985, on behalf of SATH, I authored the brochure, The U.S. Welcomes Handicapped Visitors, which was published jointly by the U.S. Travel and Tourism Administration and SATH. Since 1984, the brochure has gone through three printings courtesy of Greyhound Corporation and the American Society of Travel Agents. One-quarter of a million copies have been distributed directly to disabled travelers or their families and friends in the U.S. and around the world. This is the third Congressional hearing at which SATH has presented testimony. The two previous hearings were before the Subcommittee on Business, Trade and Tourism, Committee on Commerce, Science and Transportation, U.S. Senate on Tuesday, May 22, 1984 and before the Subcommittee on Commerce, Transportation and Tourism of the U.S. House of Representatives on Monday, December 5, 1983. In 1987, I participated on behalf of SATH in the regulatory negotiation process to implement the Air Carrier Access Act of 1986 (PL 99-435). SATH serves as a member of the Federal Advisory Committee and is a key player in drafting proposed regulations. The testimony that follows is based on first-hand, eyewitness knowledge. Over the last 14 years, SATH has been able to carefully analyze both the market potential and the possible problems which face disabled travelers. We are testifying in support of the "Air Travel Rights for Blind Individuals Act," S.341, introduced by Senator Ernest F. Hollings of South Carolina.

Need for S.341

On February 15, 1989, I wrote to the members of the U.S. Senate as follows:

"I am writing to you on behalf of the Society for the Advancement of Travel for the Handicapped (SATH) to ask you to co-sponsor S.341, the "Air Travel Rights for Blind Individuals Act." This bill was introduced by Senator Ernest Hollings of South Carolina. It seeks to supplement provisions of the Air Carrier Access Act (PL 99-435) to specifically prevent discrimination by the airlines based on blindness or visual acuity.

SATH is a travel industry organization whose 3,500 members are travel agents and tour operators who specialize in making travel arrangements for blind and handicapped persons. Current airline practices which discriminate against blind persons in seating, pre-boarding and the provision of other services act as a strong economic disincentive for our members. Because airlines continue mercilessly to harass blind passengers, many have decided not to travel by air at all, except in dire emergencies. Discriminatory air carrier policies against the blind have placed an onerous burden on our members to the extent that it has now become difficult to make adequate flight arrangements which may be needed by a passenger.

SATH took part in regulatory negotiations to implement the Air Carrier Access Act of 1986. Proposed regulations to implement the Act exacerbate the problem of discrimination against the blind. These regulations make it easier to discriminate against them. There is no evidence to show that blind passengers present a greater safety hazard in air travel than other passengers. Yet, the FAA proposes to issue specific regulations which would increase discrimination against blind passengers with no evidence to support such regulations.

As a travel industry organization, SATH opposes discrimination against the blind in air travel. S.341 would close the door on such discrimination. Please help us to prevent discrimination against the passengers we want to serve and in the interest of the public-at-large. I look forward to hearing from you."

Following our letter, we received a number of positive responses which indicate to us that substantial, bipartisan support exists for quick action on S.341.

Blind persons throughout the U.S. have demonstrated the need for this legislation because of incidents which have taken place over the last few years regarding exit row seating. Arrests on trumped-up charges, humiliation and merciless harassment by untrained air carrier personnel have made the exit row issue into a bitter public dispute.

Furthermore, the need for this legislation is vitally urgent because of the publication of proposed FAA regulations in yesterday's Federal Register. There is a 90 day comment period after which the FAA can and will issue a final rule. This final rule will go into effect unless Congress takes action to reiterate the intent of the Air Carrier Access Act by passing S.341.

Senator FORD. Thank you very much, Dr. Snider.

I think all three of you have answered most of the questions I might have asked today, and I compliment you on your complete testimony.

One item bothers me just a little bit, and Dr. Snider I think alluded to it, that because of certain individuals who were prejudiced, there was no longer any need for those of your two organizations to continue with the negotiations.

Mr. Jernigan, or Dr. Snider, either one of you who wants to answer this question, is this the group that put together the proposed rule that is now before us for consideration?

Mr. JERNIGAN. Mr. Chairman, the regulatory negotiations were made pursuant to the passage of the 1986 law, and FAA, of course, being a part of the Department of Transportation, did sit in on that.

The DOT's rules have come out saying—they have not been finalized, either; it is contemplated that they and the FAA rules will be finalized at the same time, as I understand it—the DOT rules—you're going to have a hard time believing what I am going to say to you—say that a blind person cannot be discriminated against in seating in an exit row. If a guy is blind, you cannot keep him from sitting in an exit row.

However, the FAA rules go on to say, as you will see in reading them, that no, you cannot keep a blind person from sitting there, but if he can't see, he can't sit there.

Now, I don't know what that means.

So the FAA interacted as part of this overall thing.

I, too, Mr. Chairman, heard Rick Kramer say over and over look, if exit row seating had been a problem, do you think we would not have made rules about it all these years, if we had known about it? If it had been a problem, we would have made rules about it.

Then the attorneys got hold of it and it all changed. It suddenly is a safety problem.

Senator FORD. Did your group participate in the construction of the rules that are now before us for consideration?

Mr. JERNIGAN. No, sir. Those were DOT rules. These are FAA rules, and we did not participate in these at all. We did not have an opportunity to.

Senator FORD. You were not asked to participate in DOT rules?

Mr. JERNIGAN. Oh, yes, sir, and we did. But we were not asked to participate in the FAA rulemaking.

But yes, sir, we did participate in DOT rules.

Senator FORD. And you participated the whole time and were part of the input.

How did the rules come out that you did not particularly like them, since you had a lot of input? Were you just outvoted, or is it that the bureaucrats would not pay any attention to you?

Mr. JERNIGAN. It was not a matter of voting. They said they were not going to do it that way. They were not going to vote.

They had a fine democratic process, Mr. Chairman. They said that——

Senator FORD. And I'm beginning to understand it.

Mr. JERNIGAN [continuing]. They said that they were going to discuss it and arrive at it by consensus, which meant that they were going to do as they pleased. They did not vote on it at all.

As a matter of fact, they said they specifically would not vote on it. And the airlines said a lot of things could not be considered at all because they had an economic impact, and anything that had an economic impact was not on the table for consideration. Then FAA said anything dealing with safety could not be discussed because that was not on the table.

There was not much left, Mr. Chairman. We talked about a lot of things there.

Dr. SNIDER. Mr. Chairman, DOT used a cop-out to say well, look, you guys didn't conclude these regulatory negotiations, so things you didn't reach any consensus on we can do what we please on.

Well, they did what they pleased with the whole darn thing, not just with the part we did not reach consensus on.

Then the FAA and the one particular official that I talked about, Irene Mields, got a bee in her bonnet about it and said well, I'm going to go off and we're going to make a separate rulemaking. That has provoked these FAA rules.

Mr. JERNIGAN. Mr. Chairman, let me simply say this. I do not for a moment accuse anybody in this of bad faith or bad conscience, or anything else.

Senator FORD. Just bad judgment.

Mr. JERNIGAN. I accuse them of something else, which is, in some ways, almost worse. I think that nobody believes he is prejudiced, nobody believes he is ignorant. If he did, he would change whatever it is he was doing.

They believe that what they are saying is right. It all comes down to a simple question.

Your descriptions here this morning of all of the problems—deaths in airplanes—you know, we're not for deaths in airplanes. I ride those planes. I don't want to get killed. But not a single blind person was involved in all of those things, and I, Mr. Chairman, happened to have read the testimony on the Manchester air crash.

I can tell you that, according to one flight official, the plane was so full of smoke, he said I had to feel and try to find my way. I could not see anything in that plane.

Now, I don't say that there would have been more people saved if a blind person had been in a position to help lead out of that plane. I was not there.

But I can tell you this. I can cite you chapter and verse on the fact that at least one flight official said he had to feel his way to find what he was doing.

Senator FORD. Thank you very much.

Senator Hollings.

The CHAIRMAN. Mr. Jernigan, this is an educational process. We had one for the last 3 weeks relative to how a person who can be a good Senator and still not be qualified to serve in the military. That is a hard lesson for us Senators to learn.

Now we are learning, and I will be quite candid. I had my misgivings and concerns about safety, and was saying to myself originally, until you folks came and educated me otherwise, what this issue is all about. I began to understand it, as you very colorfully

presented it here this morning, that it is more than just not being seated at an exit. There is a capability involved here. I think if I were blind, I would do my dead-level best to prove that I was just as capable as anyone else. In this particular instance, you have proven it to me.

Now the question is can we prove it to our colleagues in the Congress?

It is not going to be easy. But let me ask you this. Do you have any in the blind—I don't want to call it a movement, or a discipline—but groups, perhaps, that have found otherwise? Is there any dissent from your position?

Mr. JERNIGAN. I think, Mr. Chairman, that there are a number of blind people in the country, and it would be surprising if every blind person in this country agreed with all the rest of us on anything. It does not happen in the U.S. Senate, as you have just said. It does not happen among sighted people.

The CHAIRMAN. Any substantial dissent?

Mr. JERNIGAN. I would say that most active blind people who travel on airlines and, therefore, are in a position to know, feel, Mr. Chairman, that there is substantial discrimination against blind people, and I believe that that is a fair statement.

I further believe this.

I believe it is fair to say that the real problem we are dealing with here transcends the exit rows. As I've said, I think it means this. I think that anytime you allow a given class of people who can be easily identified to be subject to the rules of others on the spot, you encourage the kind of thing that is happening, and that, I think, is what we are facing.

The CHAIRMAN. I think you are exactly right. And yet, when you say those who travel, you begin to qualify.

Mr. JERNIGAN. Yes, sir.

The CHAIRMAN. My friend, Mr. Frye, says, and I am quoting him, "I contend that blind persons, properly trained in mobility, are as likely to escape and assist others in an emergency situation."

So the normal individual would say yes, properly trained in mobility. The question, then, is how many are trained in mobility.

Mr. JERNIGAN. Mr. Chairman, let me just say this to you.

You heard the FAA testify that there are eight or ten kinds of exits on one kind of airplane.

The CHAIRMAN. Right.

Mr. JERNIGAN. The cards that tell you how to open exits on those planes or that have other information are generic. They are not even specific. It is an economic matter. They are not specific to the given airplane.

I have head people tell me okay, look, you can't see the exit. So, therefore, if there is an emergency, a sighted person could stop and read that card and see what to do. But that's not going to happen, Mr. Chairman.

So, yes, there are blind people who cannot exit a plane well. But I doubt that that percentage is a bit higher than the sighted people.

Most of the sighted people I know have one or another kind of problem, just as most of the blind people I know—there are some

who are capable and most who are in the middle, and some who are quite incapable. But I think that is true of sighted and blind.

The CHAIRMAN. Well, you know, many people have come to us, such as Jim Gashel, and we have talked to many from my home State and from your office here in Maryland. I am convinced of it. I am convinced you can do it, and I am convinced that it is discriminatory. That is why we put it in the bill.

But I am trying to bring it around into the devil's advocate position, saying why don't they just take the seats out or why don't they just see "big shot politicians," and they'll sit you in first class? They can recognize you quicker than they can recognize a politician, I hope.

Why don't they just put you in the front seat? Isn't there some other solution to this problem.

I know what your answer is because I rather agree with you. Like I said, put it in the bill.

I think legislation is necessary, a policy is necessary, at the congressional level, to solve this snarl with the FAA and those who are really not as informed as I think we are. Maybe I am wrong.

Do you have a comment?

Mr. JERNIGAN. Mr. Chairman, I do not want to belabor the issue, but I would say this to you.

I did not say in my testimony that the FAA—of course it wants safety. But its prime emphasis is not safety. If it were, it would make a rule that you could not serve drinks to people in exit rows, or maybe at all, on planes. But they don't do that, and they don't do it because passengers would not tolerate it, and because the airlines would suffer economically.

Your testimony this morning was that you do not permit baggage to be in exit rows. Mr. Chairman, if you go on the average airplane, I think you will find that that is not true. Bags may be stowed under the seats in exit rows. They are stowed there, as a matter of fact.

What I am really saying is sure, there is some risk any time any of us gets on an airplane. But I believe that the blind should not be held to a higher standard of safety than others, and I think you should not expect the blind person to be tested against the perfect, nonexistent, sighted person.

So what I am really saying is we are not dealing primarily with safety because one out of every three times that a blind person flies in this country, according to our experience, that blind person can expect attack, humiliation, harassment, and badgering, whereas you don't have air accidents that often.

As I say, never in history do I believe you have had a single instance where a blind person has impeded the flow of traffic or not been able to function.

You mentioned Jim Gashel. He opened the door over there, on that fine plane that we evacuated.

I think, Mr. Chairman, that is all the comment that I have.

The CHAIRMAN. Mr. Frye, did you want to elaborate on your statement?

Mr. FRYE. Senator Hollings, I would only say that the qualifying remark, "properly trained in mobility," could also apply to a person with vision. One who does not travel extensively and one

who is pretty much a homebody would not be familiar with situations on planes, would not be familiar with the potential hazards, or with the prospect of trouble, as they would not be familiar with the hotels and things if they did not travel much.

I mean, it would be a new and certainly educational experience for them, and, as it would be new for them, their ability to respond, it would seem to me, would be less likely to be as rapid.

So the same would apply to the blind who are not trained to travel. Their ability to respond would be less rapid. But those properly trained and who are seasoned travellers, as those sighted, who are seasoned travelers, it would seem to me would be equally able to function.

The CHAIRMAN. Thank you very much, Mr. Chairman.

Senator FORD. Thank you, Senator Hollings.

Let me ask Mr. Jernigan a question. I may have just learned something new. I fly 48 times a year and have for the last 14 years, round trip, to my State. The card in the little pocket in the seat in front of me always sets out the safety exits and that sort of thing for the type of aircraft I was on. I didn't know that it was generic, that I would be riding on a 737 and have a DC-10 exit card in front of me.

I just have not found that yet in my travels. You said they were all generic and were not appropriate.

Would you want to repeat that or say that all the cards in the pocket in front of you that show the exit and so forth are for the aircraft on which you are flying, rather than for some other aircraft?

Mr. JERNIGAN. Mr. Chairman, I believe that parts of those cards are generic, and I don't know that it is possible, but let me say to you that in an air safety conference, recently, Jim Gashel, our Director of Governmental Affairs, who is in this room, participated in a lengthy discussion with airline personnel, and I believe Federal officials were there, about this very fact. He can give you succinctly the statement. But I believe that they said they could not make it specific to airplanes because it would be a matter of confusion and economics.

But you could ask him and see.

You know, I am giving you hearsay.

Senator FORD. That is fine. It just bothered me some if all of the exits were going to be generic, and you would be on a 727 and they gave you a card for a DC-10, then you'd be in one hell of a bad shape, to try to get out of that plane, wouldn't you?

Mr. JERNIGAN. I believe that is so, Mr. Chairman.

Senator FORD. Thank you gentlemen very, very much. You have been excellent witnesses and we appreciate it very, very much.

We have two additional witnesses now: James E. Landry, senior vice president and general counsel, ATA, and Susan Bianchi-Sand of the Association of Flight Attendants, accompanied by Matthew Finucane, the director of Air Safety and Health.

Senator FORD. I will start using first names here.

Susan, would you like to go first.

STATEMENT OF SUSAN BIANCHI-SAND, NATIONAL PRESIDENT, ASSOCIATION OF FLIGHT ATTENDANTS, AFL–CIO, ACCOMPANIED BY MATTHEW H. FINUCANE, DIRECTOR, AIR SAFETY AND HEALTH

Ms. BIANCHI-SAND. Thank you, Mr. Chairman.

Senator FORD. The only advantage that I have over you is that my name is on hub caps.

Ms. BIANCHI-SAND. Well, if you travel in Italy, you'll see "Bianchi" a lot. It's on some cars there.

Senator FORD. All right, then.

Ms. BIANCHI-SAND. Thank you, Mr. Chairman, for the opportunity to testify this morning. I will make some brief remarks, as I know you have our full testimony already, and I believe it will be admitted into the record.

Senator FORD. It will be included in the record in full.

Ms. BIANCHI-SAND. Thank you.

An aircraft that crashes has many ignition sources and thousands of gallons of jet fuel ready to explode. The flight attendant's job is to get the passengers out of the burning airplane in a hurry. Within 1 minute or maybe 90 seconds, an aircraft can be filled with fire, smoke, and toxic gases.

In order to evacuate passengers quickly and save them from a fire, the FAA has, in recent years, mandated many new rules imposing significant costs on the carriers, such as requirements for seat fire-blocking layers, new flammability rules for the entire cabin interior, new seat strength standards for new aircraft types, floor-level lighting, and automatic fire extinguishers in the lavatories.

Given this backdrop of FAA concern over passenger survivability, we believe that the FAA's decision to regulate exit row seating is nondiscriminatory and long overdue.

It is nondiscriminatory because the agency is not singling out one aspect of cabin safety to raise to a high standard, while leaving the rest at some modest level. It is long overdue, we believe, because it will lend the agency's expertise to a matter that has heretofore been left to the carriers, and it will lead to uniform policies with regard to exit row seating.

Even though the FAA is acting with good intentions in regulating exit row seatings, it is important to ask whether or not there is a rational basis for the agency to conduct rulemaking in this area.

Based on our experience with emergency evacuations, we submit that there is.

As flight attendants, we are keenly aware that exits can be difficult to open and do not operate in the same manner as normal doors. We are aware that the instructions to open a door are often written on the door, and that large arrows often show how the doors are to be opened.

We are aware that when a door is opened, a handle sometimes has to be pulled to deploy a slide, and that pulling the wrong handle will detach the slide.

We are aware that opening the door during an evacuation will sometimes allow a large fuel fire into the cabin, killing the person who opened the door and dozens of people inside the aircraft.

Also, we are aware that emergency exit slides often fail, and that the first person out the door can encounter extremely dangerous conditions.

We are aware, in short, that opening a door or a window exit can be difficult and dangerous, both for the person who opens it and the entire planeload of passengers.

Would a blind person have more difficulty opening a door with visual markings than a sighted person? Would they be less likely to detect a large fuel fire outside an exit that can only be seen through a window? Would they be more likely to be unaware, as the first person out of the exit, that the slide is not there, or that the wing has been damaged to such a degree that it would be better to go out another exit?

Would they be less likely to realize that in some cases, a slide inflation handle must be pulled before leaving the aircraft?

If the answers to these questions are "yes," then placing blind persons adjacent to the exits will reduce the chances of all passengers escaping through the exit and seriously jeopardize the safety of the blind passengers themselves.

Although we believe the answer to these questions is yes, the final word on this matter should come from the FAA, which has over half a century of experience in evaluating actual and test evacuations.

The FAA should make its decision after a fair and open rulemaking proceeding, with an opportunity for comment by all the interested groups, including the blind, the aviation industry, and others.

The FAA, by virtue of its statutory authority and experience, is clearly in the best position to evaluate the arguments being advanced by groups representing the blind, such as the alleged lack of evidence of blind persons in exit rows impeding evacuation.

If no such evidence exists, perhaps it is because blind persons have not been allowed to sit in the exit rows.

We hope that today's hearings will foster a better understanding between the groups representing the blind and the FAA.

We believe that any rules restricting exit row seating should apply to all persons who might not be able to perform the evacuations. This would include people on crutches and others, and not just those who fall into traditional disability stereotypes.

On the other hand, we also think that the groups representing the blind must realize that aviation is one of the most closely regulated industries in the United States, an industry where the design, the production, the operation of the aircraft, and the skills of the people who operate the system, are regulated in great detail. Safety is the business of the FAA. It is not a buzz word that they pull out when they want to discriminate.

Once again, we thank you for giving us the opportunity to appear.

I did want Matt Finucane to make a couple of comments, if I could, Mr. Chairman, at this point.

[The statement follows:]

STATEMENT OF SUSAN BIANCHI-SAND, NATIONAL PRESIDENT, ASSOCIATION OF FLIGHT ATTENDANTS

On behalf of our 24,000 flight attendants at 18 U.S. carriers, I want to thank the Chairman and the members of the subcommittee for this opportunity to testify.

While flight attendants are not afraid of flying, we are aware that there is a realistic possibility of a plane crash when we fly. We are also aware that many plane crashes are survivable, because they occur on take-off or landing and the fuselage remains relatively intact. In such cases, the real threat to passenger survival is fire.

An aircraft that crashes has many ignition sources, and thousands of gallons of jet fuel ready to explode. The flight attendant's job, and this is why we are required on aircraft, is to get passengers out of a burning plane in a hurry. Within a minute, maybe 90 seconds, an aircraft can be filled with fire, smoke, and toxic gases. The doors and window exits must be opened immediately, and passengers directed to escape.

In order to evacuate passengers quickly, and save them from a fire, the FAA has in recent years mandated many new rules imposing significant costs on the carriers, including requirements for seat fire-blocking layers, new flammability rules for the entire cabin interior, new seat strength standards for new aircraft types, floor-level lighting, automatic fire-extinguishers in lavatories, new carry-on baggage rules, and new requirements for cargo liners. Other rules under active consideration would place

better seats on existing aircraft, would require fire extinguishers in cargo compartments that currently lack them, and would set a maximum distance between exits. Although Congress, the National Transportation Safety Board, crewmember groups, and passenger groups have had to exert pressure on the agency to accomplish many of these goals, and although much remains to be done, it is clear that the FAA takes seriously the idea that passengers should be provided the highest degree of safety, both in terms of crash avoidance, and in terms of crash survival.

Given this backdrop of FAA concern over passenger survivability, we believe that the FAA's decision to regulate exit row seating is non-discriminatory, as well as long overdue. It is non-discriminatory because the agency is not singling out one aspect of cabin safety to raise to a high standard, while leaving the rest at some modest level. It is long overdue because it will lend the agency's expertise to a matter that has heretofore been left to the carriers, and will lead to uniform carrier policies on exit row seating.

A uniform policy is needed in this area to avoid the appearance of arbitrariness, and to give the travelling public the ability to know what to expect when they fly. Indeed, we would like to see the FAA address the much more troubling issue of whether certain persons who cannot move or readily communicate

should be required to have personal attendants before flying at all. Carrier rules requiring a personal attendant, which force the disabled person to hire someone and pay for their ticket, are much more burdensome than the carrier rules restricting access to exit rows. We firmly believe that personal attendants should sometimes be required, but we also think the FAA should carefully set the criteria to be used in making such a determination, rather than leaving the choice of criteria up to each carrier.

Even though the FAA is acting with good intentions in regulating exit row seating, it is important to ask whether or not there is a rational basis for their taking action, that is, whether there is any plausible reason for the agency to conduct rulemaking in this area. Based on our experience with emergency evacuations, we submit that there is. As flight attendants, we are keenly aware that exits can be difficult to open and do not operate in the same manner as normal doors. We are aware that the instructions on how to open a door are often written on the door, and that large arrows often show how the doors should be opened. We are aware that when a door is opened a handle sometimes has to be pulled to deploy a slide, and that pulling the wrong handle will detach the slide. We are aware that opening a door during an evacuation will sometimes allow a large fuel fire into the cabin, killing the person who opened the door and dozens of people inside the aircraft. We are aware that emergency exit slides often fail, and

that the first person out the door can encounter extremely dangerous conditions. We are aware, in short, that opening a door or window exit can be difficult and dangerous, both for the person who opens it and for the entire planeload of passengers.

Would a blind person have more difficulty opening a door with visual markings than a sighted person? Would they be less likely to detect a large fuel fire outside an exit that can only be seen through a window? Would they be more likely to be unaware, as the first person out of an exit, that the slide is not there, or that the wing has been damaged to such a degree that it would be better to go out another exit? Would they be less likely to realize that in some cases a slide inflation handle must be pulled before leaving the aircraft? If the answer to these questions is "yes", placing blind persons adjacent to exits will reduce the chances of all passengers escaping an aircraft, and seriously jeopardize the safety of the blind passengers themselves.

Although we believe the answer to these questions is "yes", the final word on this matter should come from the FAA, which has over half a century of experience evaluating actual and test evacuations, including tests involving blind persons. The FAA should make its decision after a fair and open rulemaking proceeding with an opportunity for comment by groups representing the blind and the aviation industry. The FAA, by virtue of its

statutory authority and expertise, is clearly in the best position to evaluate arguments being advanced by groups representing the blind, such as the alleged lack of evidence of blind persons in exit rows hampering evacuations. If no such evidence exists, perhaps it is because blind persons have not been allowed to sit in exit rows.

While we support and applaud the agency's decision to conduct rulemaking in this area, and do not support legislation that would interfere with that right, we nevertheless thank Congress for looking into this difficult conflict between safety and disability rights. We hope that today's hearings will foster a better understanding between the groups representing the blind, and the Federal Aviation Administration.

The FAA, after all, must eliminate known hazards even if the hazards have not already caused fatalities. And it should eliminate those hazards even if the likelihood of those hazards causing fatalities is small. One FAA Administrator conceded that the likelihood of a collision between two jets is too small to justify the cost of installing and operating TCAS. Yet the FAA is now requiring TCAS on all aircraft. Individuals who are disabled, on the other hand, are faced with widespread discrimination in our society, often based on phony safety arguments. This is particularly true in the area of employment, where "what if" is

just a code word for bias and prejudice.

Each side of this debate needs to develop a better understanding of the other side. The government must understand the need to make whatever rules it plans to write the least restrictive possible, while maintaining safety. Any rules restricting exit row seating should apply to all persons who might not be able to perform evacuations duties, such as someone returning from a ski vacation on crutches, not just to those who fall into traditional disability stereotypes. On the other hand, the groups representing the blind must realize that aviation is one of the most closely regulated industries in the United States, an industry where the design, production, and operation of aircraft, and the skills of the people who operate the system, are regulated in great detail. Safety is the business of the FAA, it is not a buzz word that it carts out when it wants to discriminate.

Finally, we would be remiss if we did not take this opportunity to address a separate concern of ours related to the transportation of the physically challenged. We believe that the airline industry needs to greatly improve its physical access to air travel through structural changes in the aircraft design, telecommunications devices for the deaf, better training for airline personnel who are in contact with disabled persons, and other improvements to accommodate persons with disabilities. Let us all work together to make flying more achievable for all persons who need or want to fly, even if a few carefully designed safety restrictions must stay in place.

Thank you again for this opportunity to appear before you.

Senator FORD. I can never turn a lady down.

Mr. FINUCANE. I just wanted briefly to respond to the personal attack that was made on Ms. Mields during the last panel.

Just very briefly, I worked with her in the regulatory negotiation for several months. There was never a hint of discriminatory bias on her part, unless not agreeing with everything the last panel said counts as bias.

Ms. Mields cares deeply about safety issues. She also cares deeply about being fair. There is no evidence that she should be held responsible for this rule.

All FAA rules go through intensive intra-agency and inter-agency coordination. On this rule, the technical support came from the Office of Flight Standards. It was also run by the Department of Justice.

I think the last panel was really just hanging the messenger of bad news, and, really, the agency is the one who has to take either the credit or the blame for the rules, and not Ms. Mields.

Senator FORD. As in the past, the messenger with the bad news always receives the sword.

Mr. Landry.

STATEMENT OF JAMES E. LANDRY, SENIOR VICE PRESIDENT AND GENERAL COUNSEL, AIR TRANSPORT ASSOCIATION OF AMERICA, ACCOMPANIED BY WALTER S. COLEMAN, ASSISTANT VICE PRESIDENT, OPERATIONS

Mr. LANDRY. Good morning, Mr. Chairman.

At the outset, let me concur with Mr. Finucane's remarks of a moment ago. We certainly believe the regulatory process has been fair.

My name is Jim Landry. I am senior vice president and general counsel of the Air Transport Association. I am accompanied by Walt Coleman, ATA's vice president, operations.

We appreciate this opportunity to present the views of the scheduled air carriers concerning S. 341.

We oppose S. 341 as contrary to the safety interests of the flying public. We agree with the FAA that this is a safety issue because of the potential impact of the contemplated exit row seating on emergency evacuations, and, in turn, crash survivability.

In the NPRM, which it published yesterday, the FAA correctly points out that seating blind and visually impaired passengers in exit rows has the effect of delaying an emergency evacuation. It must be kept in mind that the issue here is not just the ability of blind persons to move through an aircraft and open an exit, but as between blind, or visually impaired, and sighted persons, who can best assess the conditions outside the aircraft and make appropriate decision concerning the safety of a particular evacuation route.

In my prepared statement, I outline several of the tasks which must be performed rapidly and accurately by an individual in an exit row if an evacuation is to be both expeditious and successful. Blind passengers and persons with severe visual impairments cannot, as a class, perform these tasks as quickly and correctly as persons with normal vision, if at all. Nor are they singled out, for the same reasons that airline policies prohibit children, frail, elder-

ly persons, and persons with other types of disabilities from sitting in exit rows.

Even if we accept for the sake of argument the proffer of the National Federation of the Blind that some blind persons can do some of these things better than some sighted persons, there is no practical way for a gate agent or other airline employee to determine which blind persons possess those qualities.

Most importantly, in the context of other nondiscrimination laws, courts have upheld class-based distinctions where the public safety has been advanced. In my statement I cite the Western Air Lines case—a Supreme Court decision, and also a *Tamiami Trail Tours* case.

We are talking about approximately 3 percent of all seats on larger aircraft. So this is not an issue of access to air transportation.

We recognize that blind and others with disabilities have raised valid concerns about the consistency of treatment which they receive, but that problem is not resolved by this bill. Unfortunately, what the bill does do is run counter to consistent FAA efforts to improve crash survivability by promulgating rules addressing improved seat safety standards, floor lighting, and flammability retardation, as well as a host of pending rules cited in my statement.

The bill ignores the duty of air carriers to operate with the highest degree of safety in the public interest by framing the question as an issue of civil rights, instead of safety.

Section 3 of Public Law 99–345, the Air Carrier Access Act of 1986, mandated that the regulations to insure nondiscriminatory treatment of qualified handicapped individuals, including the blind, must be consistent with safe carriage of all passengers on air carriers. The statutorily responsible expert agency, the FAA, has concluded that it is an unsafe practice to allow blind persons and persons with many other types of disabilities to sit in exit rows.

In the rulemaking process, the burden is now properly on the advocates for the blind and others affected by the proposed rule, to show that it is a safe practice.

We urge this committee not to adopt S. 341.

Thank you, Mr. Chairman.

[The statement follows:]

Statement of James E. Landry
Senior Vice President and General Counsel
Air Transport Association of America
Before the Subcommittee on Aviation
Committee on Commerce, Science and Technology
United States Senate
March 14, 1989

Good morning. My name is James E. Landry. I am Senior Vice President and General Counsel of the Air Transport Association of America (ATA). I am accompanied by Walter S. Coleman, ATA's Vice President, Operations.

ATA appreciates this opportunity to present the views of the scheduled air carrier industry concerning the Air Travel Rights for Blind Individuals Act, S. 341. ATA's members are U.S. airlines providing scheduled passenger and cargo service. Our members account for approximately 97 percent of the revenue passenger miles flown in this country by scheduled airlines.

So that the Committee is clear on our position regarding S. 341, let me state now that we oppose this bill as contrary to the safety interests of the flying public. The primary concern underlying our opposition to this bill is its impact on crash survivability. If passed, this legislation would undermine FAA initiatives to improve crash survivability.

Additionally, on what is perhaps a more fundamental level, the bill gives us cause for concern because it approaches this vital safety issue from the wrong perspective. S. 341 is being advanced as civil rights legislation. A civil rights approach

to the question of whether persons with vision impairments should sit in emergency exit rows is inappropriate because it ignores what truly is at issue here, public safety; specifically, passenger and crew safety in the event of an emergency evacuation. While the difference between these two approaches may seem minor, that is not the case. The difference is significant because it determines where the "burden of proof" lies on the question of whether this is a safe practice. For these reasons, the FAA should be allowed to proceed with its recently announced rulemaking. The FAA's proposed rule carefully addresses the issue of exit row seating for all passengers in a comprehensive, non-discriminatory manner.

Under the Federal Aviation Act, air carriers have the duty to operate with the highest degree of safety in the public interest. The FAA has the duty to regulate the airline industry to ensure that this standard is met at all times. Thus, under the regulatory structure which has developed, it is incumbent upon the industry, when opposing or attempting to overturn an FAA rule or order, to demonstrate that the FAA is incorrect in its analysis and that the recommended practice is not necessary. There is, in essence, a presumption that a proposed FAA rule is safe, and the burden lies with the industry to demonstrate otherwise if it disagrees with the FAA. Similarly, anyone petitioning the FAA for a particular rule or practice has the burden of convincing the FAA that the

proposed rule or practice is safe.

S. 341, by establishing that persons with visual impairments have a right to sit in aircraft exit rows, presumes that such passengers can perceive and act upon all necessary information in order to respond appropriately in an emergency situation. In essence, the bill shifts the burden of proof to the FAA and the industry to establish that it is unsafe to allow blind persons to sit in exit rows. This is a dangerous precedent.

It is inconsistent with the established statutory and regulatory framework for the FAA suddenly to have to justify that a practice or procedure is unsafe in order to exercise its regulatory authority to set standards. To our knowledge, the FAA has never had to operate under such a restriction, and there is no justification to require it for this particular issue. If this issue is framed as a safety issue, as it should be, then the burden shifts to the blind advocacy groups to demonstrate that it is safe, as a general rule, for blind persons and persons with severe visual impairments to sit in exit rows.

The FAA, in its Notice of Proposed Rulemaking on exit row seating, has framed the issue in this fashion and has concluded that it is an unsafe practice to allow blind persons, and persons with many other types of disabilities, to sit in exit rows. Consequently, it is now up to the various disability

advocacy groups to come forward and demonstrate that a rapid emergency evacuation will not be impeded or prevented entirely by the presence of such persons in exit rows.

Carrier policies restricting persons with vision impairments from sitting in emergency exit rows did not evolve in an arbitrary manner, but are based on FAA research and the industry's experience with emergency evacuations. The FAA's research shows very clearly that in the event of an emergency, the location of persons with disabilities is important because of the effect on establishing an evacuation stream and the total evacuation time. The research points out the fact that seating location for these people is critical in minimizing evacuation delays. Persons with disabilities take from 20% to more than 1000% longer than non-disabled persons to reach aircraft exits. "Emergency Escape of Handicapped Air Travellers," Report No. FAA-AM 77-11 (July 1977).

Earlier FAA research and consideration of this issue resulted in Advisory Circular 120-32 (March 25, 1977). The Advisory Circular was drafted to provide guidance to airlines in developing procedures required under 14 C.F.R. 121.586. With regard to ambulatory passengers with disabilities, which includes ambulatory blind passengers, the Advisory Circular states that such passengers "should be seated in areas in which evacuation would normally occur through a floor level, non overwing exit." AC 120-32, ¶ 9.c, at 9. Airline policies, for

the most part, are consistent with this guidance.

Let us examine, very briefly, what is involved in an emergency evacuation. There are many "tasks" which must be performed rapidly and accurately by an individual in an exit row if an evacuation is to be both expeditious and successful. Moving from one's seat to an emergency exit is not the only "task" involved. Others, noted below, play an equally important role in a rapid evacuation. These tasks have been considered by airlines in developing their procedures pursuant to 14 C.F.R. 121.586. Among these additional tasks are the following:

a. The ability to assess conditions outside of the aircraft. This includes not only the presence of fire, but other dangers such as leaking or pooling fuel; objects which could cause injury such as torn or jagged metal; the condition of the wing and the distance from the wing to the ground; and the presence of dangerous objects on the ground such as rocks or splintered trees;

b. The ability to locate and operate the door release mechanism(s), including the ability to distinguish release mechanisms from arming devices;

c. The ability to place the overwing exit door, after removal, without injuring a fellow passenger or blocking the efforts of other passengers in proceeding to an emergency exit;

d. With respect to floor level exits, the ability to determine whether the slide has deployed properly or if it is necessary to deploy the slide manually and whether it is safe to use the slide; and

e. The ability to select a safe route away from an aircraft once the evacuation commences. It is important that the first persons out of an aircraft lead following passengers away from the aircraft and avoid hazards, including emergency vehicles.

Totally blind passengers and persons with severe visual impairments cannot, as a class, perform these tasks as quickly and correctly as persons with normal vision, if at all. We note that for these reasons, airline policies prohibit children, frail elderly persons and persons with other types of disabilities from sitting in exit rows. In no way are the blind and visually impaired singled out.

At this point, I would like to address some suggestions made by proponents of this legislation. The comment heard perhaps most often is that blind persons are capable of reacting better than sighted persons in a dark and smokey environment because they are used to maneuvering in darkness. In a similar vein, some have suggested that blind persons are less prone to panic and shock and, therefore, will react to an emergency situation better than sighted persons. Obviously, these suggestions are mere conjecture and fail to take into account floor level lighting to mark the location of emergency exits. Moreover, it is unlikely that an aircraft cabin interior will be completely darkened as a result of an emergency or accident. Lighting changes from the opening of exits are apparent, even in a smoke-filled cabin.

More importantly, both of these suggestions suffer from a common flaw, which is that such qualities are unique to each individual and cannot be attributed to an entire class of persons. While it may be true that certain blind persons will

react better than certain sighted persons in an emergency situation or in a darkened cabin interior, there is no test by which such qualities could be discerned by airline employees when boarding passengers onto an airplane. Under these circumstances, a reasonable, precautionary rule applied on a class basis to protect the public safety is prudent and sensible. Such class-based distinctions have been recognized by the courts. Usery v. Tamiami Trail Tours, Inc., 531 F.2d 224 (5th Cir. 1976); Western Air Lines, Inc. v. Criswell, 472 U.S. 400 (1985).

It has also been suggested that blind persons can assess the presence of fire outside a cabin (as well as inside a cabin) through tactile senses. If this is true at all, it would be true only in those circumstances where the fire is intense and immediately outside the aircraft. Aircraft cabins are well insulated and the interior materials are largely plastic. Both of these factors militate against exterior heat (or cold) being readily detected by a person inside the cabin utilizing only tactile sensations. Thus, a fire which is just starting, or that is moving towards an exit and would dictate that the exit not be used, would not be detectable by a blind person. Moreover, such a capability is an individual skill.

Even if all blind persons were capable of detecting the presence of fire, they would not be able to detect other dangers such as torn or jagged metal, leaking or pooled fuel,

etc. Likewise, blind persons would not be able to detect immediately, if at all, that a slide had not deployed properly or if a slide is safe to use. If a slide should fail to deploy properly, or if the arming mechanism were pulled by accident instead of the release mechanism, a blind person would have a difficult time, at best, deploying a slide.

Communication between the flight crew and passengers is crucial during an evacuation. One of the key means of communication during an emergency evacuation is through hand and verbal directions from crewmembers. Persons with severe visual impairments are not capable of seeing hand signals, and would have to rely solely on hearing verbal instructions. Such communications alone may not be effective. A blind passenger may be distracted while concentrating on trying to locate an exit or maneuvering around an obstacle. It also is possible that one's hearing could be damaged as a result of an accident. Sighted persons, of course, may have a difficult time understanding hand or verbal directions and are equally susceptible to injury, but that is not the point. The point is that it does not make sense to put someone with a "physical deficit" in a location which is critical to a successful emergency evacuation. Picture yourselves or your families in an emergency situation and contemplate what seating arrangement assures you the highest level of safety and the speediest evacuation - having seated in the exit row an individual who is

fully capable of assessing the dangers and determining the next steps to be taken, or an individual who must rely on his or her tactile senses? We think you will agree that logic dictates the first option.

There is little room for doubt that S. 341 would undermine FAA efforts to approve crash survivability for passengers and crewmembers. In recent years, the FAA has promulgated a number of rules which share the common goal of increasing the number of passengers and crewmembers who can survive an aircraft crash. These rules address improved seat safety standards, carry-on baggage limitations, floor proximity lighting, and flammability retardation standards for cabin interior materials. In addition, rules in the final regulatory stages include location of passenger emergency exits, independent power source for aircraft public address systems, improved structural requirements for pressurized cabins, fire protection requirements for cargo and baggage compartments, and protective breathing equipment. All of these rules are intended to minimize the occurrence of serious injuries to passengers in a crash situation, thereby maximizing the opportunity for evacuation.

Put another way, these regulations represent an effort to limit the number of passengers who become disabled as a result of a crash. Deliberately putting an individual with a disability in an emergency exit row is directly at odds with

these initiatives.

We fully believe that the studies done by the FAA's Civil Aeromedical Institute provide a sufficient basis for present air carrier policies. They were careful, extensive and controlled studies using real people with a wide variety of disabilities, including several blind persons. It is entirely appropriate to rely on those studies and the guidance issued by the FAA. We urge the Committee to allow the FAA to do its job.

If, however, this Committee determines as a matter of social policy that blind persons should have a civil right to sit in exit rows which must be protected by federal law, and that this civil right should be elevated above concerns for safety, we would urge the Committee not to take any action until additional evacuation studies can be conducted to determine the impact of seating blind persons in exit rows. Although we believe additional studies are unnecessary, if Congress is to address the issue of seating blind passengers, then it should address the whole issue and not just part of it. Otherwise, we have no doubt that this question will be determined by the courts.

Senator FORD. Thank you, Mr. Landry. Let me get back to Susan and then to you.

Susan, the FAA proposed rule establishes several criteria for an airline to select who can be allowed to sit in an exit row.

Would you envision the need for additional flight attendant training on using these criteria as proposed?

Ms. BIANCHI-SAND. I think yes. If this rule is adopted, we would want some of our training targeted at this particular regulation, although we expect that this regulation would be implemented more by the gate agents than it would be by the flight attendants. Once we get them on board, they are already assigned seats, and it would just be more disruptive to make an adjustment.

But we certainly would want some specific training in this rule.

Senator FORD. You have articulated very, very well a concern that blind individuals, if seated in the exit row, would interfere with quick evacuation of an aircraft.

Where would you propose they be seated, and when would they be evacuated during an emergency?

Ms. BIANCHI-SAND. I don't think we would propose they be seated in any particular area of the plane. We're speaking of where we would suggest they not be seated. Any other part of the aircraft, of course, is fine. I don't think we have a preference that they be seated in one section of the aircraft or not.

At this point in time, in terms of the way flight attendants handle things, when we know there is going to be an emergency, we look at who is seated in all of the critical areas, and we make some judgments now as to moving people around, in order that we have able-bodied passengers in exit rows, near the doors and windows.

Senator FORD. To your knowledge, have flight attendants had any specific experience relating to the emergency evacuation of blind passengers seated in an exit row?

Ms. BIANCHI-SAND. Because right now they are not allowed to sit in the exit rows, we do not really have any evidence that would speak to evacuations with them in an exit row.

Senator FORD. So, really, we are going on speculation, or judgment, rather than experience.

Ms. BIANCHI-SAND. Well, our opinion is based largely on our training and our experience in evacuations.

Senator FORD. We need the experience. It is better than education sometimes.

Ms. BIANCHI-SAND. There is a large emphasis in flight attendant training put on assessing the conditions prior to evacuating passengers, assessing where the airplane has landed, whether it is in the water, partially in the water, partially on land, whether there is a fire, whether the slide is operational or not.

So there is a lot of emphasis on that, and that is what concerns us, that issue of assessment with regard to an unsighted person being seated near the exit area.

Senator FORD. Thank you.

Mr. Landry, you stated that if S. 341 is passed, it would undermine FAA efforts to improve crash survivability for passengers and crew.

Would you elaborate on this a little bit and how allowing blind passengers to sit in the exit row would undermine passenger safety?

Mr. LANDRY. Well, Mr. Chairman, in that portion of my prepared statement, I alluded to a whole host of rules which the FAA has, in recent years, promulgated, in order to improve crash survivability: the seat safety standards, floor lighting, flammability retardation and a whole bunch of rules that are also pending today.

This is one more of those rules which, in the FAA's expert judgment, would improve, would hasten evacuation and, therefore, improve crash survivability.

What I am suggesting is that if you were to effectively terminate or void the ongoing rulemaking process, that you would be undermining that process.

Senator FORD. Are all the current airline policies with respect to exit row seating basically the same?

Mr. LANDRY. They are basically the same with regard to exit row seating. There are inconsistencies among some rules of the airlines with regard to the handling of handicapped passengers, and that is

one of the fringe benefits that will come out of the regulatory process, to make those rules more consistent so that passengers will be aware of what the situation is going to be, no matter on which airline they fly.

Senator FORD. One of the problems I envision here, or have heard, but not seen, based on comments of Dr. Jernigan and Mr. Frye, is this. Why have the airlines allowed blind individuals to be seated in exit rows, only later to require their removal? It seems that once you are allowed to sit there and then you go to them and move them out, and it is obvious why they are being moved, the problem has resulted from allowing them to be seated there in the first place and then going and asking them to be removed. That not only makes it somewhat distasteful to the flight attendants, but very distasteful to the individual, and that, I think, has created much of our problem here.

Mr. LANDRY. I assure you, Mr. Chairman, we do not like confrontations at all with our passengers, with the flying public. Those are obviously mistakes that may have occurred in the reservations process. Sometimes, as you well know, the reservation is made by phone. Passengers can go directly to the gate and sometimes the situation is not fully understood, until you are aboard the aircraft.

Senator FORD. How can we be sure this would not continue to happen under the FAA proposals?

Mr. LANDRY. Again, I think that living under FAA rules is a demanding experience for the airlines and their flight crews. I assure you that usually they work and you have always the FAA's often-evidenced ability to levy penalties and fines if the rules are not abided by.

Senator FORD. Why couldn't the airlines just hold those seats and not assign them to anybody? I have been on a lot of flights, recently, and since deregulation, most of them have been cattle cars. But why couldn't you just hold those seats and not assign them?

Mr. LANDRY. Well, if the FAA were to determine that having any passengers occupy those seats is unsafe——

Senator FORD. But what I am talking about, though, is if you don't have enough passengers to fill the airplane, why not just hold those and assign those as the last seats available?

Mr. LANDRY. I suppose that would be possible. But, as evidenced by the statement earlier this morning by Senator Exon, there are a number of passengers who prefer the extra leg room that is present in front of those seats in the exit rows and who ask for those seats.

Senator FORD. Well, you did not let Senator Exon's wife have one, who was in a cast, who he was asking be seated there so she could be accommodated. She was refused that seat.

Mr. LANDRY. That's right. I have had that experience with a 12-year-old daughter, who was also told that she could not sit in that seat. Even though she was a superb athlete, obviously they did not think she was mature enough to make the decisions necessary to perform those tasks.

I fear from the comments of my wife, periodically, that I may be too obese to sit in one shortly. Or perhaps in another 10 years, somebody will think that I am too elderly.

Senator FORD. Well, you ought to tell your wife that she ought to be like mine.

My wife always allows me to get in the last word: "Yes, ma'am."

I don't have any other questions, and it is obvious that there are no other Senators here to ask questions.

I want to thank all the witnesses today. I think we have done very well. We have had a large crowd. We have been able to accommodate most of them with seats.

This hearing is adjourned.

[Whereupon, at 11:20 a.m., the subcommittee adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF THE AIR LINE PILOTS ASSOCIATION

The Air Line Pilots Association appreciates this opportunity to present its views concerning S. 341, "Air Travel Rights for Blind Individuals." The Air Line Pilots Association represents 41,000 pilots who fly for 44 airlines, and are responsible for the safety and lives of their passengers.

We oppose S. 341, as this legislation singles out the blind as a special class of aircraft passengers requiring special treatment. This weakens FAA's mandated responsibility to improve crash survivability and, therefore, is contrary to the real safety interests of all airline passengers.

The testimony before the Senate Aviation Subcommittee on March 13, 1989, presented by Dr. Kenneth Jernigan of the National Federation of the Blind (NFB), and Dr. Harold Snider, the Society for the Advancement of Travel for the Handicapped (SATH), made it apparent that the blind feel they are constantly being discriminated against in both large and small ways. As Dr. Jernigan stated before the Senate, "limiting exit row seating is just another manifestation of that discrimination". Thus, this emphasis by the NFB is based upon a perceived civil right and not upon safety.

In support of this concept, the president of the National

Federation of the Blind, Marc Maurer, in a speech to the attendees of the Fifth Annual Southern California Aircraft Cabin Safety Conference, made the following statement:

> "In truth and in fact we are not dealing with a safety issue at all but a matter of civil rights, and we simply will not be bullied and intimidated into submission. We will speak to the public and the Congress until we get results. And make no mistake about it--we will be heard, and we will be heeded."

Mr. Maurer has concluded that seating of the blind is not a safety issue, but a civil rights issue. This is an emotional, rather than a reasoned approach, due to the failure of the NFB to recognize the safety implications and the responsibilities of all passengers sitting in exit rows.

It should be noted that not all organizations representing the blind agree with the stand taken by the National Federation of the Blind. Mr. Oral Miller of the American Council of the Blind, has stated that it makes no difference where he sits. His only real concern is to know what to expect when he gets to the airport.

There is no need for the blind to be seated in the exit row, and

there are many reasons to decide against it. The exit row seats make up approximately three percent of passenger seats and extra precaution shall be exercised in the selection of passengers for those seats. The exit rows are essential components of the evacuation path, blockage of which can cause significant delays in the evacuation, possibly resulting in unnecessary deaths.

Overwing and floor level emergency exits vary according to the aircraft type and these exit doors require many different methods of operation. Blind persons cannot be expected to be able to operate all these different types of exit doors by memorization of the procedures. Passengers seated in the exit rows must be capable of correctly responding to emergency situations without hesitation. In an emergency, passengers seated in exit rows need to perform many sight-related tasks rapidly and accurately. For example, while locating the unlocking mechanisms, he or she must at the same time assess exterior conditions such as fire outside the emergency exit. After removing the overwing exit hatch, the passenger must also know where to place this hatch. In the case of a floor level exit, the first passenger must determine whether a slide has been safely deployed. Also, the lead passenger must be able to rapidly select a safe route away from an aircraft for his fellow passengers to follow. Time is of the essence.

Dr. Jennigan's statement alludes to the approval by a 727 pilot of seating an able-bodied blind passenger in the exit row. However, the pilot made clear that the able-bodied blind passenger should be seated with a sighted person, which indicates that the pilot felt that the blind person would definitely need assistance from a sighted person. This contradicts the position espoused by the NFB, that blind passengers need no assistance in an evacuation. They quote the pilot as saying "[i]n those cases in which there is smoke in the cabin, an able-bodied blind person, being used to handling situations without sight, would be able to assist with more facility in the evacuation." This conclusion is simply incorrect! The problem of having smoke in the cabin from a fire is not solely the loss of vision, but also the choking effect caused by inhaling the smoke, heat and toxic gases.

Blind passengers, even those who have flown commercially on numerous occasions, would have difficulty identifying and operating the emergency exit and would take more time in doing so in a situation where time is critical.

The Air Line Pilots Association strongly supports the FAA's Notice of Proposed Rulemaking (NPRM) Docket No. 25821; Notice No.

89-8, which proposes to regulate exit row seating in aircraft. We feel that the purpose of the regulation is to ensure that only persons who are able without assistance, to activate an emergency exit and to take additional actions to ensure safe use of that exit in an emergency, are seated in exit rows. This action is intended to further safety for all passengers.

Those excluded by the proposed rule from exit rows in addition to the blind would include individuals who are:

- permanently or temporarily disabled
- too frail or obese
- in advanced stages of pregnancy
- caring for small children
- unable to hear flight attendant instructions
- intoxicated
- unable to comprehend and execute emergency instructions without assistance

The FAA's decision to regulate exit row seating is not discriminatory, it is a rule written to improve the survivability of all passengers. The adoption of this rule should be a giant step toward eliminating much of the existing confusion caused by the lack of a single standard for carriage of the handicapped. Unfortunately in the past, FAA left the adoption of rules regarding the carriage of physically impaired passengers to each

individual airline, and the variations and differences between these rules have created much of the confusion that exists today. Many difficulties experienced by the handicapped passenger are thus caused by misunderstanding, misinterpretation and ignorance of these rules. This results in a fear of harassment, public humiliation, etc., as has been voiced so often by the handicapped passenger. At times, this confusion has required the aircraft captain to become a mediator and enforcer of company policy.

Mr. Dan Frye, a student at Erskine College, made a statement before the Subcommittee, that indicates the general spirit of militancy the blind have assumed in their quest for equality and the difficulty they present to the airline crew in dealing with the situation. Mr. Frye caused a confrontation on an airplane because he would not move from his assigned seat, for he could not do so "with a clear conscience." He states "[t]he issue of exit row seating is a matter of social significance. It affects the public image of blindness. It speaks of the ability of the blind." Does Mr. Frye feel that his cane will really be of equal assistance in traversing the hazardous path of an emergency evacuation as the use of sight? Mr. Frye is justifiably proud of his braille and typewriting skills, but how helpful would they be as he attempts to remove the overwing exit hatch and establish an evacuation flow? We regret that he must take another seat than one in the exit row, but it is for his safety as well as others.

There are many other seats available and the essence of the goal for nondiscrimination will be achieved. We should strive for fewer confrontations and more cooperation in the carriage of the handicapped.

On numerous occasions, our staff has requested seat assignments in the exit row and received the response that those seats are reserved for assignment at the gate. The airlines are doing their best to minimize confrontations on the airplane by assigning these seats at the gate. This raises the question of how blind passengers receive seat assignments in exit rows when it is clearly against airline policy.

The NFB states that it has a videotape showing a demonstrated evacuation of able-bodied blind passengers which shows no significant slowing of the evacuation process. This is contrary to testimony received from flight attendants and others who participated in this evacuation test. We wrote the NFB requesting to view the original, and unedited film of this demonstration and received a negative response.

ALPA hopes that the FAA and Congress will follow the example set by Australia whose three airlines have agreed on rules and regulations pertaining to the carriage of the handicapped passenger. Australia's adoption of standard procedures has

eliminated much of the previous confusion regarding handicapped passengers. According to the Australian flight attendants at the Fifth Annual International Aircraft Cabin Safety Symposium,[2] in Australia, the policy is to not seat any temporarily or permanently handicapped person in an overwing exit row or in a row with an emergency floor level exit.

ALPA strongly urges the Senate Subcommittee on Aviation to consider the numerous safety factors inherent in emergency evacuations and we feel confident that you will agree that the FAA should limit exit row seating to persons able to assist in the emergency evacuation of the passengers.

We quote the testimony by FAA's Anthony J. Broderick, who said, "We all share the same goal of seeking to achieve the highest levels of safety for the American traveling public, while at the same time, recognizing that our air travel system must be open and available to all travelers on a fair and equitable basis and without unlawful discrimination." We agree with the FAA that their proposal is a reasonable step to achieving these goals. Therefore, the issue of exit row seating should be considered solely as a critical safety issue, and not as an emotional one; therefore, we, as pilots, strongly oppose S. 341 and support the adoption by the FAA of the proposed regulation on exit row seating.

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[2]At the Claremont Hotel, Oakland, CA, February 22-25, 1988

February 25, 1989

Hon. Wendall Ford
Chairman, Subcommittee on Aviation
Committee on Commerce, Science, and Transportation
United States Senate
Washington, D.C. 20510

Dear Senator Ford:

I ask that this letter be placed in the March 14, 1989 hearing record on S.341, the Air Travel Rights for Blind Individuals Act. As a frequent flier (my air travel averages at least one flight a week), I find the attitudes of American air carriers and the Department of Transportation toward the blind to be demeaning, frustrating, and deeply disturbing. In fairness I must acknowledge with gratitude that I have often been assigned to exit row seats with no unfortunate consequences.

Occasionally an over-zealous cabin attendant attempts to snatch my long cane, but by standing fast on the FAA's instructions about stowing canes safely and by firmly and courteously making the case that I need the cane to move swiftly in case of an emergency, I have been able to dissuade such people. These incidents, however, are proliferating, and the Department of Transportation is apparently now refusing to enforce the FAA's cane stowage regulations.

This point illustrates the gravity of what I believe to be happening between airline industry officials and blind passengers who are not particularly interested in submitting themselves to the vagaries of company and airport personnel whims. These blind people have not been willing to remain in the niche traditionally assigned to us by the sighted. We have not been passive, humble, grateful, and pliant; but since we do remain a small minority, the airlines can step on us with fair ease, and the Department of Transportation and now the FAA are joining in the free-for-all.

I was arrested at the insistence of a TWA pilot in June of 1986. At the Cleveland airport I was issued boarding passes for both legs of my flight to Kansas City. In St. Louis I discovered that my seat was located in an over-wing exit row. With my secretary I studied the seat-pocket card, and I examined minutely the window, locating the handles and having her read the instructions, consisting of the word "pull." Another passenger seated in an exit row across the aisle entered the cabin leaning heavily on an orthopedic cane which was then stowed in the over-

head compartment, out of his reach.

I endured the rudeness and harassment of both crew and passengers for an hour before TWA could find a member of the police force , willing to arrest me; at least one had refused to do so, and even this officer was not happy about doing his duty. TWA, of course, dropped the charges against me the next day, and I was left with no recourse except a formal complaint to DOT, which I filed immediately.

Not surprisingly, the DOT adjudicator found in favor of the airline. He ruled that, because I could not read the actual word "pull" written on the fuselage, I constituted a hazard to other passengers. I had reported that the orthopedically impaired man had not been harassed, and DOT explained that his ability to read the printed directions demonstrated his capacity to deal with any possible emergency.

Mr. Chairman, I am a vigorous, energetic woman of forty-four in excellent physical condition. Though there could have been no way for the airline personnel to know this, I remain cool in emergencies. Blind people are frequently required to make snap decisions on a limited amount of data. We are used to coping with unusual situations, and the presence of smoke or darkness would not impede our efficiency in the first moments of an emergency. It borders on the irresponsible for DOT officials (guided by their own ignorance and prejudice) to decide that a person like me was a greater risk than a man who was obviously unable to manage without his cane and who could not independently reach it.

The explanation is clear to me. Regardless of Congressional intent as represented in the Air Carrier Access Act of 1986, the airlines and the Department of Transportation are determined that their discriminatory, high-handed, and whimsical treatment of blind people shall stand. In the name of justice, I entreat you and your committee to do what you can to see that S.341 becomes the law of the land.

Very truly yours,

Barbara Pierce

Barbara Pierce:

greater pittsburgh
GUILD FOR THE BLIND
30 Years
1959 - Serving the Visually-Impaired - 1989
311 Station Street • Bridgeville, Pennsylvania 15017 • (412) 221-2200

L. LEON REID, Ph.D.
Executive Director

March 21, 1989

Senator Ernest Hollings
125 Senate Russell Building
Washington, DC 20510

RE: FAA Rulings on Seating Adjacent to
Commercial Aircraft Emergency Exits

Dear Senator Hollings:

I understand that the National Federation for the Blind indicated in a news media position statement that they plan to testify to your sub-committee that the FAA ruling upholding the position on the above subject violates the civil rights position of blind people. Many, if not the majority, of blind people who objectively look at the situation disagree with the position taken by the National Federation for the Blind and agree with the position taken by the airlines. My opinion is a result of having traveled extensively both before and after my loss of sight at the age of 40.

I would like to have this information recorded in your sub-committee's minutes and offer to present my views to the sub-committee and would welcome their questions regarding the reason for arriving at my position.

This is not a "Civil Rights" situation. It is a situation that involves the safety of the traveling public. It is similar to the "freedom of speech" issue which does not uphold the right to falsely yell "fire" in a crowded theater because the issue of the safety of the public-at-large is overriding.

Thank you for your attention to this matter.

Yours truly,

John F. Culver
President, Board of Directors

Copy: Senator John Heinz
Senator Arlen Specter
Hon. Richard Thornburgh

John F. Culver, *President*; J. Dixon Holladay, Jr., *First Vice President*; Hon. Leonard C. Staisey, *Second Vice President*;
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NCIL

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NOT JUST RESPONDING TO CHANGE,
BUT LEADING IT

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March 23, 1989

The Honorable Wendell H. Ford, Chair
Subcommittee on Aviation
Senate Committee on Commerce,
Science & Transportation
Russell Building
Room 173A
Washington, D.C. 20510

Dear Senator Ford:

The purpose of this letter is to express the support of the National Council on Independent Living (NCIL) for the Air Travel Rights for Blind Individuals Act (S341).

NCIL is an organization of approximately 100 Centers for Independent Living (CILs) and supporters. The purpose of NCIL is to advocate at the national level for the rights of persons with disabilities throughout the country. CILs are private non-profit organizations which provide services and advocacy for disabled persons at the local level. Centers are primarily staffed and operated by persons with disabilities themselves, so NCIL represents a cross section of persons with disabilities, advocating for themselves.

Discrimination against persons with disabilities in air travel has been a major concern of NCIL for the past several years. A striking example of this discrimination has been the exclusion of persons who are blind from exit row seating or conversely the requirement that blind individuals be seated in specific areas. The assumption of the airline industry is that blind individuals will not be able to vacate the airplane as quickly, evacuate from exit row seating or independently leave the airplane in case of accident. There is not empirical evidence to support these beliefs. Further, in cases where the airplane is filled with smoke or the lights are inoperable, a blind individual may be at an advantage. Often, when a blind person is inadvertently seated in an exit row, the person is harrassed, humiliated and sometimes arrested.

If the airlines are concerned about safety, they will need to test each individual who is seated in an exit row to determine their capability of evacuation. Since such testing is not feasible, airline personnel must make these judgments based on the physical appearance of the individual. Such judgments are discriminatory.

Individuals with other types of disability undergo similar types of harrassment and discrimination in air travel. We hope the passage of this Bill will be the first step towards outlawing discrimination in air travel for all disabled persons.

Thank you very much for consideration of our comments. Please enter these comments into the Congressional Record.

Cordially,

Eric Griffin
Legislative Chair

EG:cjc